

REPRINT
SUBSTITUTE FOR
SENATE BILL NO. 994

(As passed the Senate February 12, 2002)

A bill to amend 1955 PA 133, entitled

"An act to provide for the granting of military leaves and providing re-employment protection for officers and enlisted men of the military or naval forces of the state or of the United States,"

by amending section 3 (MCL 32.273).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) ~~No~~ AN employee who requests a leave from his
2 OR HER employment shall NOT be denied a leave of absence by his
3 OR HER employer for the purpose of being inducted into ~~—~~ OR
4 entering ~~—~~ INTO ACTIVE SERVICE, ACTIVE STATE SERVICE, OR THE
5 SERVICE OF THE UNITED STATES, FOR THE PURPOSE OF determining his
6 OR HER physical fitness to enter THE SERVICE, or FOR performing
7 training duty as an officer or enlisted ~~man~~ MEMBER of the mili-
8 tary or naval forces of ~~the~~ THIS state or of the United
9 States. ~~Upon his~~ FOLLOWING release from ~~such~~ SERVICE,

1 training duty, or ~~upon his~~ rejection, ~~such~~ THE employee
2 shall, if he OR SHE makes application to his OR HER employer for
3 ~~reinstatement~~ REEMPLOYMENT within 15 days following ~~his~~
4 SERVICE, release, or rejection, be ~~reinstated in his position~~
5 ~~without reduction in his seniority, status, or pay.~~ REEMPLOYED
6 IN A POSITION OF EMPLOYMENT IN THE FOLLOWING ORDER OF PRIORITY:

7 (A) FOLLOWING SERVICE OF 1 TO 90 DAYS, IN THE POSITION OF
8 EMPLOYMENT IN WHICH THE PERSON WOULD HAVE BEEN EMPLOYED IF THE
9 CONTINUOUS EMPLOYMENT OF THE PERSON WITH THE EMPLOYER HAD NOT
10 BEEN INTERRUPTED BY SERVICE, THE DUTIES OF WHICH THE PERSON IS
11 QUALIFIED TO PERFORM.

12 (B) FOLLOWING SERVICE OF 1 TO 90 DAYS, IN THE POSITION OF
13 EMPLOYMENT IN WHICH THE PERSON WAS EMPLOYED ON THE DATE OF THE
14 COMMENCEMENT OF SERVICE, ONLY IF THE PERSON IS NOT QUALIFIED TO
15 PERFORM THE DUTIES OF THE POSITION REFERRED TO IN SUBDIVISION (A)
16 AND AFTER REASONABLE EFFORTS BY THE EMPLOYER TO QUALIFY THE
17 PERSON HAVE BEEN MADE.

18 (C) FOLLOWING SERVICE OF 91 OR MORE DAYS, A POSITION
19 DESCRIBED UNDER SUBDIVISION (A) OR (B) OR IN ANY OTHER POSITION
20 OF LESSER STATUS OR PAY THAT THE PERSON IS QUALIFIED TO PERFORM,
21 ONLY IF THE PERSON IS NOT QUALIFIED AND CANNOT BECOME QUALIFIED
22 WITH REASONABLE EFFORTS BY THE EMPLOYER TO BE EMPLOYED AS
23 DESCRIBED IN SUBDIVISION (B).

24 (2) A PERSON WHO IS REEMPLOYED UNDER THIS SECTION IS ENTI-
25 TLED TO THE SENIORITY AND OTHER RIGHTS AND BENEFITS THAT ARE
26 DETERMINED BY SENIORITY THAT THE PERSON HAD ON THE DATE OF THE
27 COMMENCEMENT OF SERVICE PLUS THE ADDITIONAL SENIORITY AND RIGHTS

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1 AND BENEFITS THAT THE PERSON WOULD HAVE ATTAINED IF THE PERSON
2 HAD BEEN CONTINUALLY EMPLOYED.

3 (3) IN ADDITION TO THE SENIORITY, RIGHTS, AND BENEFITS UNDER
4 SUBSECTION (2), A PERSON WHO IS REEMPLOYED UNDER THIS SECTION IS
5 ENTITLED TO RIGHTS AND BENEFITS, NOT DETERMINED BY SENIORITY,
6 THAT ARE GENERALLY PROVIDED BY THE EMPLOYER TO EMPLOYEES WHO HAVE
7 SIMILAR SENIORITY, STATUS, AND PAY WHO ARE ON FURLOUGH OR LEAVE
8 OF ABSENCE UNDER A CONTRACT, AGREEMENT, POLICY, PRACTICE, OR PLAN
9 IN EFFECT AT THE COMMENCEMENT OF SERVICE OR ESTABLISHED WHILE THE
10 PERSON PERFORMS SERVICE.

11 (4) THE EMPLOYEE IS NOT ENTITLED TO REEMPLOYMENT UNDER THIS
12 SECTION IF THE EMPLOYEE WHO IS ABSENT BY REASON OF ACTIVE SERV-
13 ICE, ACTIVE STATE SERVICE, OR THE SERVICE OF THE UNITED STATES
14 HAS A CUMULATIVE PERIOD OF SERVICE IN THE UNIFORMED SERVICES,
15 WITH RESPECT TO THE EMPLOYER RELATIONSHIP FOR WHICH A PERSON
16 SEEKS REEMPLOYMENT, THAT EXCEEDS 5 YEARS, EXCEPT THAT ANY PERIOD
17 OF SERVICE SHALL NOT INCLUDE ANY OF THE FOLLOWING:

18 (A) ANY SERVICE THAT IS REQUIRED, BEYOND 5 YEARS, TO COM-
19 PLETE AN INITIAL PERIOD OF OBLIGATED SERVICE.

20 (B) ANY SERVICE DURING WHICH THE PERSON WAS UNABLE TO OBTAIN
21 ORDERS RELEASING HIM OR HER FROM A PERIOD OF SERVICE IN THE UNI-
22 FORMED SERVICES BEFORE THE EXPIRATION OF THE 5-YEAR PERIOD AND
23 THE INABILITY WAS THROUGH NO FAULT OF THE PERSON.

24 (C) ANY SERVICE PERFORMED AS REQUIRED PURSUANT TO 10
25 U.S.C. 10147, UNDER 32 U.S.C. 502(a) OR 503, OR TO FULFILL ADDI-
26 TIONAL TRAINING REQUIREMENTS DETERMINED AND CERTIFIED IN WRITING
27 BY THE APPROPRIATE SERVICE SECRETARY TO BE NECESSARY FOR

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1 PROFESSIONAL DEVELOPMENT OR FOR COMPLETION OF SKILL TRAINING OR
2 RETRAINING.

3 (D) ANY SERVICE PERFORMED BY A MEMBER IN ACTIVE SERVICE,
4 ACTIVE STATE SERVICE, OR THE SERVICE OF THE UNITED STATES IF ANY
5 OF THE FOLLOWING OCCUR:

6 (i) THE MEMBER IS ORDERED TO OR RETAINED ON ACTIVE DUTY,
7 ACTIVE SERVICE, OR ACTIVE STATE SERVICE UNDER 10 U.S.C. 688,
8 12301(a), 12301(g), 12302, 12304, OR 12305, OR UNDER 14
9 U.S.C. 331, 332, 359, 360, 367, OR 712.

10 (ii) THE MEMBER IS ORDERED TO OR RETAINED ON ACTIVE DUTY,
11 ACTIVE SERVICE, OR ACTIVE STATE SERVICE, OTHER THAN FOR TRAINING,
12 UNDER ANY PROVISION OF LAW BECAUSE OF A WAR OR NATIONAL EMERGENCY
13 DECLARED BY THE PRESIDENT, THE CONGRESS, OR THE GOVERNOR.

14 (iii) THE MEMBER IS ORDERED TO ACTIVE DUTY, OTHER THAN FOR
15 TRAINING, IN SUPPORT, AS DETERMINED BY THE APPROPRIATE SERVICE
16 SECRETARY, OF AN OPERATIONAL MISSION FOR WHICH PERSONNEL HAVE
17 BEEN ORDERED TO ACTIVE DUTY UNDER 10 U.S.C. 12304.

18 (iv) THE MEMBER IS ORDERED TO ACTIVE DUTY IN SUPPORT, AS
19 DETERMINED BY THE APPROPRIATE SERVICE SECRETARY, OF A CRITICAL MISSION OR
20 REQUIREMENT OF THE UNIFORMED SERVICES.

21 (v) THE MEMBER IS CALLED INTO FEDERAL SERVICE AS A MEMBER OF
22 THE NATIONAL GUARD UNDER 10 U.S.C. 331 TO 335 OR UNDER 10
23 U.S.C. 12406.

24 (5) AN EMPLOYEE IS NOT ENTITLED TO THE BENEFITS UNDER THIS
25 SECTION IF THE SERVICE OF THE EMPLOYEE IN ANY OF THE UNIFORMED
26 SERVICES IS TERMINATED UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

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1 (A) A SEPARATION OF THE PERSON FROM THE UNIFORMED SERVICE OR
2 NATIONAL GUARD WITH A DISHONORABLE OR BAD CONDUCT DISCHARGE.

3 (B) A SEPARATION OF THE PERSON FROM THE UNIFORMED SERVICE OR
4 NATIONAL GUARD UNDER OTHER THAN HONORABLE CONDITIONS, AS CHARAC-
5 TERIZED PURSUANT TO REGULATIONS PRESCRIBED BY THE APPROPRIATE
6 SERVICE SECRETARY.

7 (C) A DISMISSAL OF THE PERSON UNDER 10 U.S.C. 1161(a).

8 (D) A DROPPING FROM THE ROLLS PURSUANT TO 10
9 U.S.C. 1161(b).

10 (6) AS USED IN THIS SECTION:

11 (A) "ACTIVE SERVICE" MEANS SERVICE, INCLUDING ACTIVE STATE
12 SERVICE OR SPECIAL DUTY REQUIRED BY LAW, REGULATION, OR PURSUANT
13 TO ORDER OF THE GOVERNOR. ACTIVE SERVICE INCLUDES CONTINUING
14 SERVICE OF AN ACTIVE MEMBER OF THE NATIONAL GUARD AND THE DEFENSE
15 FORCE IN FULFILLING THAT ACTIVE MEMBER'S COMMISSION, APPOINTMENT,
16 OR ENLISTMENT.

17 (B) "ACTIVE STATE SERVICE", AS APPLIED TO THE NATIONAL GUARD
18 AND THE DEFENSE FORCE, MEANS MILITARY SERVICE IN SUPPORT OF CIVIL
19 AUTHORITIES, AT THE REQUEST OF LOCAL AUTHORITIES, INCLUDING, BUT
20 NOT LIMITED TO, SUPPORT IN THE ENFORCEMENT OF LAWS PROHIBITING
21 THE IMPORTATION, SALE, DELIVERY, POSSESSION, OR USE OF A CON-
22 TROLLED SUBSTANCE, IF ORDERED BY THE GOVERNOR OR AS OTHERWISE
23 PROVIDED IN THIS ACT. AS USED IN THIS SUBDIVISION, "CONTROLLED
24 SUBSTANCE" MEANS THAT TERM AS DEFINED IN SECTION 7104 OF THE
25 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

26 (C) "SERVICE" MEANS ACTIVE SERVICE, ACTIVE STATE SERVICE, OR
27 IN THE SERVICE OF THE UNITED STATES.

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1 (D) "SERVICE SECRETARY" MEANS THE SECRETARY OF THE ARMY,
2 SECRETARY OF THE NAVY, OR SECRETARY OF THE AIR FORCE AS DEFINED
3 IN 10 U.S.C. 101(9).

4 (E) "UNIFORMED SERVICE" MEANS THE ARMED FORCES, THE RESERVE
5 COMPONENT, THE NATIONAL
6 GUARD IN ACTIVE SERVICE OR ACTIVE STATE SERVICE, THE COMMISSIONED
7 CORPS OF THE PUBLIC HEALTH SERVICE, AND ANY OTHER CATEGORY OF
8 PERSONS DESIGNATED BY THE PRESIDENT OR GOVERNOR IN TIME OF WAR OR
NATIONAL EMERGENCY.