



U.S. ARMY OKINAWA

★ TORII STATION ★



LEGAL ASSISTANCE

• 652-4332 / 4742 • BUILDING 218, ROOM 220 •

BEING SUED BUT CAN'T GET TO COURT?

Visit Legal Assistance soon!

If you need a private attorney to represent you, Legal Assistance can help refer you.

Did you receive a certified letter five days ago, commanding you appear in a courtroom 3000 miles away? Have you recently phoned home from overseas to learn that you received some "official looking papers" from a magistrate or justice of the peace? Have you been denied credit because of an "outstanding judgment" against you from a court you never heard of? If you have answered yes to any of these questions, you should be interested in the protections afforded to service members by the Servicemembers Civil Relief Act (SCRA) (Title 50 United States Code, Sections 3901-4043).

The SCRA is a federal law that may protect soldiers on active duty. One part of the SCRA protects military members from default judgments in state courts. Congress enacted the protection realizing that military duty may prohibit Service members from defending themselves in court. Because of mobilizations, field exercises, deployments, and frequent moves and address changes, some Soldiers may not even be aware they are being sued or involved in a legal action.

The law requires plaintiffs and courts to determine whether a defendant is on active duty military service before any court issues a default judgment. A Soldier on active duty may request that the court appoint an attorney to represent him or her before any judgment. If the Soldier's duty materially interferes with his or her ability to respond to the lawsuit, the Soldier or the court-appointed attorney may request that proceedings be stopped temporarily or "stayed". This "stay" of proceedings, however, is not permanent and will be lifted as soon as the Soldier's duty no longer interferes with participating in the legal matter. This usually means until the Soldier is back from the field or until the Soldier can take leave to travel to the States. The law does not make Soldiers immune from legal action and usually overseas duty is not, by itself, sufficient justification to delay a court proceeding.

A Soldier who has already suffered a default judgment may be able to open that judgment by showing that the military duty "materially affected" the Soldier's ability to make a defense and that the Soldier actually has a meritorious defense. In addition, the judgment must have been entered while the Soldier was on active duty or within 60 days of the Soldier's release from active duty, and the Soldier must request the SCRA relief while on active duty or within 90 days of release.

The SCRA provides substantial protection to Soldiers. However, these rights must be asserted because the protections are not automatic. The most important part of protecting your interests is taking the initiative and using the resources available to you - consult the legal assistance office for further information.