

Department of Justice Legislative Proposals to Strengthen Civil Rights Laws



On September 20, 2011, the Department of Justice (DOJ) formally transmitted to Congress a package of legislative proposals designed to strengthen enforcement of laws that protect the rights of servicemembers and their families.

Examples of the proposed amendments include:

- Pattern-or-practice authority for DOJ to enforce the Uniformed Services Employment and Reemployment Rights Act (USERRA);
- Increased civil penalties under the Servicemembers Civil Relief Act (SCRA);
- Clarification regarding retroactivity of provisions establishing a private right of action and reaffirming the authority of the Attorney General to enforce the SCRA;
- New requirements that states submit pre-election reports under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA);
- Elimination of the state hardship waiver provision in UOCAVA in favor of a uniform, nationwide standard for transmission of military and overseas ballots;
- Express remedies under UOCAVA for states that fail to transmit ballots by the deadline before an election, including requiring express delivery and imposing civil penalties; and
- An explicit private right of action to enforce UOCAVA.

The package also includes parallel proposals to strengthen enforcement of civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, and religion, including for example:

- An explicit right of action to bring a claim based on disparate impact theory under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, in response to the Supreme Court's decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001);
- Civil investigative demand authority to compel production of existing documentary material in investigations under the Fair Housing Amendments Act, the Equal Credit Opportunity Act, and Title VII of the Civil Rights Act of 1964; and
- Increased civil penalties in DOJ litigation under the Fair Housing Amendments Act.