

Public Law 117–178
117th Congress

An Act

Sept. 29, 2022
[S. 2293]

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide certain employment rights to reservists of the Federal Emergency Management Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civilian
Reservist
Emergency
Workforce Act
of 2021.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Civilian Reservist Emergency Workforce Act of 2021” or the “CREW Act”.

SEC. 2. PERSONNEL PERFORMING SERVICE RESPONDING TO PRESIDENTIALLY DECLARED MAJOR DISASTERS AND EMERGENCIES.

Section 306 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5149) is amended by adding at the end the following:

“(d) PERSONNEL PERFORMING SERVICE RESPONDING TO DISASTERS AND EMERGENCIES.—

Applicability.

“(1) USERRA EMPLOYMENT AND REEMPLOYMENT RIGHTS.—The protections, rights, benefits, and obligations provided under chapter 43 of title 38, United States Code, shall apply to intermittent personnel appointed pursuant to subsection (b)(1) to perform service to the Federal Emergency Management Agency under sections 401 and 501 or to train for such service.

Determination.

“(2) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of service under subsection (b)(1) to perform service to the Federal Emergency Management Agency under sections 401 and 501 or to train for such service shall be considered preclusion by ‘military necessity’ for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to review in any judicial or administrative proceeding.”.

SEC. 3. EXTENSION OF CERTAIN EMPLOYMENT AND REEMPLOYMENT RIGHTS TO FEMA RESERVISTS.

(a) IN GENERAL.—Section 4303 of title 38, United States Code, is amended—

(1) in paragraph (13), by inserting before “, and a period” the following: “, a period for which a person is absent from a position of employment due to an appointment into service in the Federal Emergency Management Agency as intermittent personnel under section 306(b)(1) of the Robert T. Stafford

Disaster Relief and Emergency Assistance Act (42 U.S.C. 5149(b)(1))”;

(2) by redesignating the second paragraph (16) (relating to uniformed services) as paragraph (17); and

(3) in paragraph (17), as so redesignated, by inserting before “and any other category” the following: “intermittent personnel who are appointed into Federal Emergency Management Agency service under section 306(b)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5149(b)(1)) or to train for such service,”.

(b) MODIFICATION OF EXCEPTION FOR REQUIREMENT FOR MEMBERS OF UNIFORMED SERVICES TO PROVIDE NOTICE TO EMPLOYERS TO OBTAIN CERTAIN EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Section 4312(b) of title 38, United States Code, is amended—

(1) by striking the second sentence;

(2) by inserting “(1)” before “No notice”; and

(3) by adding at the end the following new paragraph:

“(2) A determination of military necessity for purposes of paragraph (1) shall be made—

“(A) except as provided in subparagraphs (B) and (C), pursuant to regulations prescribed by the Secretary of Defense;

“(B) for persons performing service to the Federal Emergency Management Agency under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165f) and as intermittent personnel under section 306(b)(1) of such Act (42 U.S.C. 5149(b)(1)), by the Administrator of the Federal Emergency Management Agency as described in sections 327(j)(2) and 306(d)(2) of such Act (42 U.S.C. 5165f(j)(2) and 5149(d)(2)), respectively; or

“(C) for intermittent disaster-response appointees of the National Disaster Medical System, by the Secretary of Health and Human Services as described in section 2812(d)(3)(B) of the Public Health Service Act (42 U.S.C. 300hh–11(d)(3)(B)).

“(3) A determination of military necessity under paragraph (1) shall not be subject to judicial review.”.

Approved September 29, 2022.

LEGISLATIVE HISTORY—S. 2293:

SENATE REPORTS: No. 117–44 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 167 (2021): Dec. 8, considered and passed Senate.

Vol. 168 (2022): Sept. 13, 14, considered and passed House.

