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Military Exemption from Civil Process

ACA § 12-62-403

No person belonging to the organized militia shall be served with any civil process while going to, remaining at, or returning from any place at which he or she may be required to attend for military duty.

“Process” is any means used by a state court to acquire or exercise jurisdiction over a person or a specific property. In Arkansas, a Servicemember cannot be served with state civil process if on orders and traveling to, remaining at, or returning from their place of duty. State civil process includes service of documents like lawsuits, summons, subpoenas, etc. It is important to note that not included in this statute is immunity from service at one’s home or from state CRIMINAL process. A Servicemember can still be served with state criminal complaints, arrest warrants, etc.

Notice of a civil lawsuit is important because a court does not have authority, also known as jurisdiction, over a person unless the lawsuit has been filed in that court and the person has properly received a copy. Rule 4 of the Arkansas Rules of Civil Procedure govern civil service of process in Arkansas.

In *Cato v. Craighead County Circuit Court*, 2009 Ark 334, 322 S.W.3d 484 (2009) the Supreme Court of Arkansas heard a challenge to the constitutionality of this law. The Court found that the law was constitutional, confirming its validity, stating that the law provides a “substantive right to members of the organized militia to be exempt from civil process while going to, remaining at, or returning from any place

where they may be required to attend for military duty. In other words, [the statute] bars the application of the usual service-of-process procedures... to members of the organized militia at such times.”

It is important to note that if a person can file a lawsuit against a Servicemember and serve them had they not been on active orders, then the time limit for filing a lawsuit, also known as the statute of limitations, stops running until the Servicemember is back from their military duty.

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