

# **ALABAMA VETERANS LEGAL GUIDE**

**A Survey of Civil Federal and State Laws Affecting  
Veterans, Servicemen, and Their Families**

*Last updated November 24, 2014*

**By Jordan Stephens, University of Alabama School of Law, Class of 2015  
Under the supervision of Professor Pam Pierson,  
University of Alabama School of Law**

**In conjunction with the Alabama State Bar and  
the Alabama Veterans Executive Network Commission (AlaVetNet)**

# TABLE OF CONTENTS

<b>Purpose of the Alabama Veterans Court Guide .....</b>	<b>3</b>
<b>Alabama’s Veterans Treatment Courts .....</b>	<b>5</b>
<b>Common Legal Issues Facing Veterans .....</b>	<b>7</b>
<b>Who Qualifies as a Veteran? .....</b>	<b>8</b>
<b>Procedural Issues .....</b>	<b>8</b>
<b>Tax Law and Benefits .....</b>	<b>11</b>
<b>Consumer Protection .....</b>	<b>12</b>
<b>Employment Benefits .....</b>	<b>14</b>
<b>Licensing Benefits .....</b>	<b>17</b>
<b>Education Benefits .....</b>	<b>21</b>
<b>Family Law and Probate Court Issues .....</b>	<b>23</b>
<b>End of Life Benefits .....</b>	<b>25</b>
<b>Benefits for Veterans’ Families .....</b>	<b>26</b>
<b>Overview and Purpose of Alabama Veterans Executive Network Commission (AlaVetNet) .....</b>	<b>32</b>

## **PURPOSE OF THE ALABAMA VETERANS COURT GUIDE**

This guide is intended to assist veterans, servicemen, their families, and practitioners in understanding and utilizing the Alabama court system. Please note that this guide is solely intended to provide general information about civil legal matters and is not to be interpreted as legal advice. This guide is not intended to be an exhaustive treatise on these areas of law. Further research into these legal issues is likely needed. Any laws described in this pamphlet are subject to change at any time.

This guide is provided in conjunction with the Alabama State Bar as a resource and reference for veterans, servicemen, their families, and practitioners who may be involved in the legal system for a variety of reasons. The Alabama State Bar offers programs and resources to assist attorneys and the public. More information can be found on the Alabama State Bar's website at: <https://www.alabar.org>.

The Alabama State Bar formed the Volunteer Lawyers Program (VLP), which offers services to veterans, servicemen, and their families through the Volunteer Lawyers Network and related agencies. Attorneys provide free legal assistance with civil matters. For more information, contact the VLP's Public Assistance Line at (888) 857-8571 or visit the VLP website at: <https://www.alabar.org/programs-departments/volunteer-lawyer-program/>.

Each law school in Alabama has clinical programs that may offer legal assistance for veterans, servicemen, and their families. Please visit each school website for further information.

### **Cumberland School of Law – Birmingham:**

<http://www.samford.edu/cumberlandlaw/mediation-center/>

**Jones School of Law – Montgomery:**

<http://www.faulkner.edu/law/faulkner-law-programs/clinics-and-externships/>

**University of Alabama School of Law – Tuscaloosa:**

<http://www.law.ua.edu/academics/law-clinics/>

In May 2014, the Military Spouse JD Foundation (MSJDF) established Justice for Military Families (JMF) to provide free legal assistance to military families. The program currently matches attorneys who are also military spouses with surviving families of servicemen and veterans. JMF's online legal clinic and application will launch in early 2015. For more information, visit the program's website at: <http://www.msjdn.org/about/jmf/>.

## ALABAMA'S VETERANS TREATMENT COURTS

While this guide focuses on assisting veterans and servicemen with civil legal matters, some Alabama jurisdictions have established, or are in the process of establishing, courts specifically focused on issues unique to veterans and servicemen accused of criminal violations, called the Alabama Veterans Treatment Courts. If you are an attorney assisting a veteran or serviceman with civil issues and learn of criminal charges, you should make him or her aware of these courts, which may take into account that a service-related disease, condition, or disability may have influenced or caused behavior alleged to be in violation of Alabama criminal law.

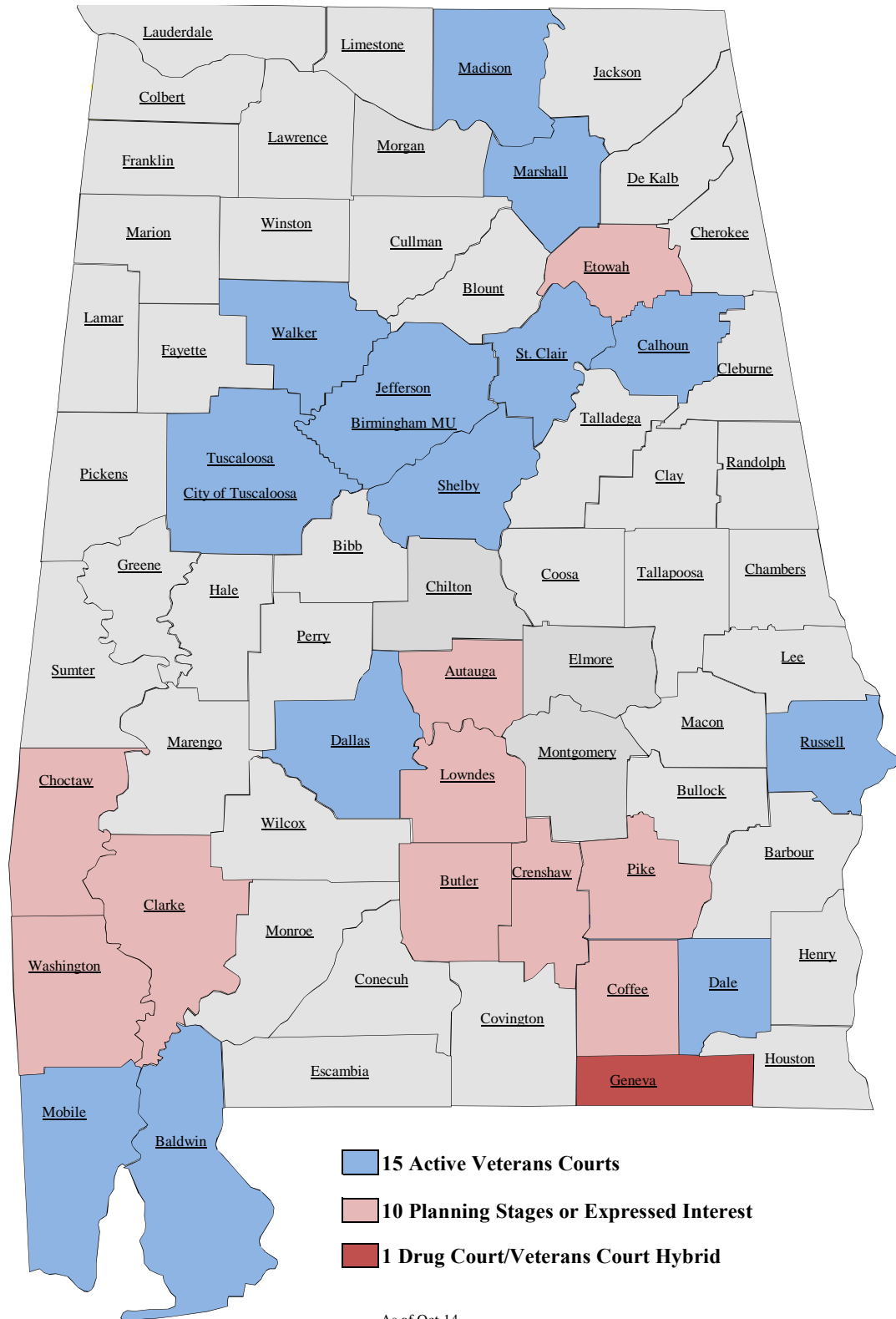
The Veterans Treatment Courts mirror drug and mental health courts by using a therapeutic, problem-solving approach. The veterans and servicemen involved in these courts have a personalized treatment plan with the supervision and guidance of the court, health care professionals, mental health professionals, and veteran mentors. Often after completing the program, charges are dropped or there is a guarantee of no jail time in sentencing. The Veterans Treatment Courts aim to quickly and successfully return veterans and servicemen to their normal lives, including housing, employment, and family relationships. There are currently fifteen active veterans courts in the state, with others in the planning stages. A map of the veterans courts last updated in October 2014 is included below.

A detailed analysis of the Veterans Treatment Courts is seen in the article "*In War, There are No Unwounded Soldiers:*" *The Emergence of Veterans Treatment Courts in Alabama* by Jeremiah M. Glassford, 65 ALA. L. REV. 239 (2013). The article is available at:

<http://www.law.ua.edu/pubs/lrarticles/Volume%2065/Issue%201/5%20Glassford%20239-267.pdf>.

Further information on the Veterans Treatment Courts and the Veterans Treatment Courts Guide is accessible on the State Bar website at [www.alabar.org/news/](http://www.alabar.org/news/). This Alabama Veterans Legal Guide will be available on this web page as well.

# ALABAMA'S VETERANS TREATMENT COURTS



As of Oct 14

## COMMON LEGAL ISSUES FACING VETERANS

This guide provides summary information regarding some of the legal issues most commonly faced by veterans and their families. The guide also explains several benefits available for veterans, servicemen, and their spouses and children. In addition to issues of disability or retirement benefits, veterans face many of the same issues as any other citizen involved in the court system.

Common legal areas where veterans may need assistance include:

- Bankruptcy
- Consumer Protection
- Family Law
- Probate Law
- Property Law
- Tax Law

Although this guide focuses on veterans and the specific involvement of Alabama law, there are several federal provisions that protect servicemembers. In the event you have questions about active duty military, you should be aware of the Servicemembers Civil Relief Act (SCRA) (50 U.S.C.A. § 510 et. seq.).

**To view the full text of the SCRA, visit:**

[www.uscg.mil/legal/la/Legal\\_Assistance\\_doc/getdoc.pdf](http://www.uscg.mil/legal/la/Legal_Assistance_doc/getdoc.pdf)

**To view the full text of the Alabama Code, visit the Alabama Legislative Information System Online (ALISON):**

<http://alisondb.legislature.state.al.us/acas/>

## WHO QUALIFIES AS A VETERAN?

- Under Alabama law, a veteran is anyone who served on active duty during any war in which the United States has been engaged. The individual can be commissioned, enlisted, inducted, appointed, or mustered into the military. Military service includes naval service. The servicemember must not have had a dishonorable discharge or release from military service.
- [Ala. Code § 31-5-1\(4\)](#) - definition of “veteran.”

## PROCEDURAL PROTECTIONS

- Any commissioned officer can take an acknowledgment, proof of conveyance, or affidavit no matter if the officer is within or outside the United States. The acknowledgment of any instrument taken by a commissioned officer outside of Alabama has the same effect of an acknowledgment executed within Alabama. [Ala. Code § 35-4-26\(a\)-\(b\)](#) – execution, attestation, and acknowledgment.
- Notice of Armed Forces Death – A written notice or communication from the Department of Defense, Adjutant General of the Army, Secretary of the Navy, or an other officer who has the duty of sending information that a person in the armed forces is dead is considered prima facie evidence of the person’s death. [Ala. Code § 12-21-90](#) – official notice of armed forces death.
- Official Report of Missing Person – An official written report or record or a copy of one that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy or is dead or is alive that is made by any officer or employee of the United States authorized by any law to make this type of report or record is considered true, prima facie evidence in any court, office, or other place in this state. [Ala. Code § 12-21-91](#) – official report of person missing.
- A copy of any public record, including as a birth certificate, marriage certificate, or divorce decree, is provided free of cost when required by the USDVA to determine eligibility for its benefits. [Ala. Code § 26-9-12](#) - furnishing of copy of public record used to determine eligibility for benefits to applicant for benefits.
- Protection of Servicemembers Against Default Judgments
  - These protections against default judgment apply to any civil proceeding, including child custody proceedings.



- Where the defendant does not make an appearance in court, an affidavit is required.
  - Before a court can enter a judgment for the plaintiff, the plaintiff must submit an affidavit explaining if the defendant is in the military or stating of being unable to determine if defendant is in the military.
  - A court may not enter a judgment until appointing an attorney to represent a defendant who is a servicemember. If the attorney cannot locate the servicemember, the attorney's actions will not waive any defenses or will not bind the servicemember.
  - If the court cannot determine if the defendant is in service based on the plaintiff's affidavit, the court can require the plaintiff to file a bond. If it is later discovered that the defendant is in the military, the bond will be available to indemnify the defendant for anything that he may suffer by judgment for the plaintiff. The bond will remain until the time for appealing and setting aside the judgment expires.
- There is a penalty for making and/or using false affidavit
- If the defendant is a servicemember, a court shall stay proceedings for at least 90 days by counsel's request or on own motion if –
  - There might be a defense and it cannot be presented without the defendant, or
  - The defendant servicemember's counsel cannot determine whether a meritorious defense exists
- This section does not control the stay of proceedings when the servicemember has notice as covered by [50 App. U.S.C.A § 522](#).
- If a serviceman receives actual notice of the action, he may request a stay under [50 App. U.S.C.A § 521](#), which allows a stay of proceedings when a servicemember has notice.
- A court may vacate or set aside a default judgment.
  - If default judgment is entered during the defendant's military service or within 60 days after the termination or release from service, a court can reopen the judgment on application by the

defendant if the serviceman's defense was affected by his service and he had a defense.

- This application must occur within 90 days of the termination or release from service
  - If a court vacates, sets aside, or reverses a default judgment against a servicemember based on this Act, it will not impair a right or title acquired by a purchaser for value under the default judgment.
  - [50 App. U.S.C.A § 521](#) – protection of servicemembers against default judgments.
- These protections also apply to servicemembers working for American allies until the date of their discharge. [50 App. U.S.C.A § 514](#) – extension of protections to citizens serving with allied forces.
- Court may Stay of Proceedings When Servicemember has Notice
- In any civil action, including child custody proceedings, in which either party is in military service or within 90 days of ending service and has notice, there can be a stay of at least 90 days by the party's application or by the court's own motion at any point before final judgment. An application for a stay must include details about military requirements and their affect on the party's ability to appear in court and a letter from the commanding officer confirming that the party is prevented from appearing in court. [50 App. U.S.C.A § 522\(b\)](#) – stay of proceedings.
  - This application for a stay does not mean that the party makes an appearance for jurisdictional purposes and is not a waiver of a defense. [50 App. U.S.C.A § 522\(c\)](#) – application not a wavier of defenses.
  - A servicemember who is granted a stay can make an application for an additional stay. If denied, the court must appoint counsel to represent the servicemember. This stay does not apply to evictions. [50 App. U.S.C.A § 522\(d\)](#) – additional stay.
  - [50 App. U.S.C.A § 522](#) – stay of proceedings when servicemember has notice.

## TAX LAW AND BENEFITS

- Homes of Totally Disabled Persons or Those Over 65 Years Old
  - o An exemption is provided from ad valorem taxation of the home and an adjacent 160 acres of any person who is permanently and totally disabled or who is 65 years of age or older and has a net annual income of \$12,000.00 or less for income tax purposes for the last preceding year.
  - o [Ala. Code § 40-9-21\(a\)](#) – tax exemption.
- Payment by the Department of Defense for servicemember killed in action that was Alabama resident is “exempt from Alabama income tax during the taxable year in which the individual is declared deceased by the Armed Forces.” Income earned by the deceased spouse killed in action is also exempt from Alabama income tax during that taxable year. The Department of Revenue will refund any income taxes paid during that year. [Ala. Code § 40-9-37](#) – military death benefits.
- Any debts or credit given to a veteran through the National Housing Act or any other Congressional act relating to veterans’ benefits are exempt from Alabama law relating to lending or interest rates. [Ala. Code § 8-8-6\(a\)](#) – interest rates exemption of debts.
- Income from military service is taxed as any other income is taxed in Alabama. However, income for active service in a combat zone designated by the President is not subject to income tax. [Ala. Code § 40-18-3](#) – income of officers or agents of the United States.
- As of January 1, 1989, all retirement payments or compensation from military service and survivor benefits derived from that service are exempt from state, county, or municipal income tax. [Ala. Code § 40-18-20](#) – tax exemptions for military retirement benefits.
- Any disabled veteran of WWII or of any hostilities in which the United States was, is, or will be engaged against any foreign state, who owns an automobile which has been, is or shall hereafter be all or partly paid for with funds furnished for such purposes by the USDVA, under the authority of any Congressional act, is entitled to exemptions from all license fees and ad valorem taxes on such motor vehicle so long as the veteran keeps the vehicle only for private use. [Ala. Code § 40-12-254](#) – motor vehicles issued to disabled veterans.
- All property owned by the American Legion, Veterans of Foreign Wars, or the Disabled American Veterans, or any post thereof, is exempt from ad valorem

taxation as long as the property is used and occupied exclusively by the organization. [Ala. Code § 40-9-1\(4\)](#) – property exempted from taxation.

## CONSUMER PROTECTION

- Active and retired military personnel are granted free admission to state parks on state and federal holidays. [Ala. Code § 9-14-8](#) - free state park admission for military personnel on holidays.
- Minor veterans with their spouses may contract liability for the repayment of a loan. The contract is not void due to the age of the veteran or the spouse and their age cannot be used as a defense for an action related to the loan. [Ala. Code § 31-1-2](#) – minor veterans empowered to contract liability for repayment of certain loans.

### Foreclosures

- If an action is brought to enforce a mortgage that a servicemember entered into before entering in military service, a court can enter a stay for a time required by justice and equity or adjust the obligation to preserve all parties' interest. [50 App. U.S.C.A § 533\(b\)](#) – stay of proceedings and the adjustment of obligations under mortgages and trust deeds.
  - This stay can occur after a hearing and on the courts motion or by the servicemember's application showing that military service affects the ability to comply with the obligation. [50 App. U.S.C.A § 533\(b\)](#).
  - The stay or adjustment is only allowed for actions to enforce obligations filed within one year after the military service. [50 App. U.S.C.A § 533\(b\)](#).
- If a sale, foreclosure, or seizure of property for breach of an obligation entered into before entering the service occurs within one year after military service, it is invalid. However, a court can order a sale, foreclosure, or seizure or the parties can agree by waiving this right. [50 App. U.S.C.A § 533\(c\)](#) – sale or foreclosure.
- A person who makes, causes, or knowingly attempts to make a prohibited sale, foreclosure, or seizure of property occur can be fined, imprisoned for one year maximum or both. Violating these rules is a misdemeanor. [50 App. U.S.C.A § 533\(d\)](#) – misdemeanors for foreclosures.
- [50 App. U.S.C.A. § 533](#) – mortgages and trust deeds.

- See also pg. 26 – Benefits for Veterans’ and Servicemembers’ Families

### Evictions

- Unless there is a court order, a landlord cannot evict a servicemember or a servicemember’s dependents during the period of military service, which is the period of time from the servicemember’s entry into military service ending when released from military service or dies while in military service.
  - o This eviction protection applies to premises that are intended to primarily be residences and with a monthly rent that does not exceed \$2,400, as adjusted by inflation since 2004.
  - o The Secretary of Defense publishes an inflation adjustment for housing prices in the Federal Register each year.
- During the time of military service, a landlord also cannot subject the premises to a distress, which is taking personal property for holding or sale to satisfy past due rent.
- If an application for eviction or distress is made with the court and a request is made by or on behalf of a servicemember whose ability to pay rent is affected by military service –
  - o A court can issue a stay of proceedings for 90 days, unless the court believes justice and equity require a period of either more or less than 90 days, or
  - o A court can adjust the obligations under the lease to preserve the interests of all involved parties.
- It is a misdemeanor for a person to knowingly take part in an eviction or distress or knowingly attempt to take part in these proceedings. The person will be issued a fine, imprisoned for no more than one year, or both.
- When a court order is issued regarding an eviction or distress, an allotment will be taken from the servicemember’s pay to satisfy rent under the order.
- A stay under [50 App. U.S.C.A § 522\(d\)-\(f\)](#) where a servicemember has notice of proceedings does not apply to evictions.
- [50 App. U.S.C.A. § 531](#) – restrictions on evictions and distress related to servicemembers and their dependents.

## EMPLOYMENT BENEFITS

### Unemployment Compensation

- A person who served in the military and is unemployed may be entitled to unemployment compensation based on honorable military service.
- Note that pension or disability payments provided by the United States to individuals who have completed the period of military service may disqualify them from receiving unemployment compensation.
- [Ala. Code §§ 25-4-1, et seq.; 25-4-78](#) – unemployment compensation.
- Contact the nearest State Unemployment Compensation Claims Office regarding unemployment compensation or visit: <http://dir.alabama.gov>.

### Preference in State Classified Employment

- All veterans who have been honorably discharged from the United States Armed Forces at any time will have 5 points added to any earned ratings in examination for entrance to the state classified service.
- Honorably discharged veterans with the present existence of a service-connected disability and entitled to pension, compensation, or disability allowance under existing laws shall have 10 points added to any earned ratings.
- Wives and widows of certain disabled or deceased veterans may have the 10-point preference extended to them and added to any earned ratings.
- Veterans also receive preference on the classified service employment registers over non-veterans with the same ratings.
- When reductions are being made in any part of the classified service, persons entitled to military preference in appointment shall be the last to be discharged or dropped or reduced in rank or salary if their record is good or if their efficiency rating is equal to that of any employee in competition with them who is retained in the service in their department.
- [Ala. Code § 36-26-15\(b\)](#) – preferences for veterans.

### State Employees Called to Active Duty

- If a public employee called into active military duty has classified service, he will not lose his employment status due to his military service. [Ala. Code § 36-26-30](#) – effect of active service on status of classified employees. All

offices or positions of trust or employment in state service besides those in the classified service or those specifically exempt are considered classified service. [Ala. Code § 36-26-2\(3\)](#) – definition of classified service.

- A public employee called into active military duty can apply to the State Director of Personnel for an indefinite leave of absence for the time of honorable service. [Ala. Code § 36-26-31](#) – granting leave of absence of military service.
- Within 12 months of the end of honorable military service, a state employee can apply in writing to the State Director of Personnel for termination of the leave of absence. Within 30 days of applying, the State Personnel Board will restore the serviceman to his position if his mental and physical condition does not disqualify him from performing the required job duties. The restoration is effective on the day it is ordered and entered. It does not matter that the restoration of the serviceman results in the layoff of his temporary replacement. [Ala. Code § 36-26-32](#) – restoration of employee to former position after military service.
- A serviceman that returns to public employment will receive the same benefits as though he had remained in his position, including seniority and pay benefits. [Ala. Code § 36-26-32.1\(b\)](#) – restoration to merit civil service classification.
- Public employees who are not in the classified service who are called into military service have the same rights and privileges for reentering their state employment as employees in the classified service. [Ala. Code § 36-26-33](#) – rights and privileges on entry into military service of employees not in classified service.

#### Elected Officials Called to Active Duty

- A public official's position is not deemed vacated if called to active duty for reasons of war, terrorism, homeland security, peacekeeping, or state or national emergencies. [Ala. Code § 36-8-2](#) – entry into military service is not deemed vacation of office.
- The tenure of an elected or appointed position is not extended and compensation is not granted for time absent due to military service. [Ala. Code § 36-8-5](#) – effect of military service on tenure.

#### Service Benefits for Government Employees

- Officers and employees of the State of Alabama, any county, municipality, and agency as well as an employees of public or private business and state

sponsored schools are entitled to a military leave of absence for any days engaged in active duty military obligations, including defense or training.

- During a military leave of absence, an employee does not incur loss of pay, time, efficiency rating, annual vacation, or sick leave.
- A person with a military leave of absence will not receive pay for more than 168 working hours for the calendar year.
- Federal military duty is treated the same as Alabama National Guard or Naval Militia for these leave of absence and privileges.
- [Ala. Code § 31-2-13](#) – service benefits for government employees.

#### State Retirement System

- State employees and teachers who enter the military and return to their state employment after discharge preserve their retirement benefit rights for the Employees' Retirement System of Alabama.
- A state employee or teacher who enters the military, does not withdraw contributions, and returns to employment within one year of honorable discharge may be granted credit for up to four years of military service so long as the employee pays four percent of the average compensation paid to a state employee during each claimed year of full-time military service and eight percent interest compounded from the last date of the claimed military service.
- [Ala. Code § 36-27-4\(d\)-\(f\)](#) – effect of military service on state employees' retirement system membership
- [Ala. Code § 16-25-3\(d\)-\(e\)](#) – effect of military of military service on teachers' retirement system membership.

#### Peace Officers' Service Credit for Military Service

- A peace officer that left work for military service and returned to his work as a peace officer within six months of ending military service will receive prior service credit for that military service in the Alabama Peace Officers' Annuity and Benefit Fund. The service credit cannot exceed five years.
- A peace officer in good standing of the Alabama Peace Officers' Annuity and Benefit Fund who is drafted into the military and does not withdraw fees does not have to pay fees during his military service. The peace officer will receive membership service creditor for his service, not exceeding five years,



as long as he returns to work as a peace officer within six months of ending military service.

- [Ala. Code § 36-21-69](#) – receipt of service credit for military service.

#### Firefighters' Service Credit for Military Service

- A firefighter who is a member of the Alabama Firefighters Annuity and Benefit Fund who is either drafted or enters directly into the military and returns to work as a firefighter within six months of ending military service will receive prior service credit for military service, not exceeding five years.
- [Ala. Code § 36-21-188](#) – prior service credit for firefighters.

## **LICENSING BENEFITS**

#### Extension of Licensing for Military Service Members

- If a servicemember is in good standing with the military and the licensing body at the time of deployment, the servicemember remains in good standing for that license until at least the end of the calendar year upon the end of deployment. [Ala. Code § 31-12A-4\(a\)](#) – deployed servicemembers retain good standing for license through calendar year.
- During deployment, the license is renewed without paying dues, completing continuing education credits if the serviceman makes a request to the licensing board or completes the type of work in military duties, or performing other typical requirements for renewing licenses or certifications. [Ala. Code § 31-12A-4\(b\)](#) – renewal of deployed servicemembers' license.
- A board can require servicemen returning from deployment to complete additional credits. [Ala. Code § 31-12A-4\(c\)](#) – credits required for license following servicemembers' deployment.
- The Alabama State Bar is exempt from these requirements, although the Alabama Supreme Court can provide military personnel waivers and exemptions. [Ala. Code § 31-12A-4\(d\)](#) – Alabama Supreme Court's regulation of Alabama State Bar licenses.
- [Ala. Code § 31-12A-4](#) – extension of licensing for military servicemembers.

### Occupational Licenses

- Training, education, or service under the military is acceptable evidence for license or certification applications.
- [Ala. Code § 31-12A-2](#) – occupational license based on military education, training, or service.

### Business and Occupational License Exemptions for Disabled Veterans

- A permanent resident of Alabama who is a veteran of WWII or any time, present or future, when the U.S. engages in hostilities with a foreign state and who is 25% or more physically disabled, whether related to service or not, may be exempt from business or occupational license taxes.
- A veteran whose business is a means of livelihood by his own personal efforts and who has no more than one employee is entitled to licenses from the state, county, or municipality with paying a license tax of no more than \$25.00.
- If a veteran's real and personal property is valued at or above \$5,000 or has a net income of \$2,500 or more is not entitled to this business and occupational license exemption.
- [Ala. Code §§ 40-12-340-352](#) – licenses exemptions for disabled veterans.

### Motor Vehicle License Fees

- Any disabled veteran of WWII or of any hostilities in which the United States was, is or shall be engaged against any foreign state, who owns an automobile which has been, is or shall hereafter be all or partly paid for with funds furnished for such purposes by the U.S. Department of Veterans Affairs (USDVA), under the authority of any act of Congress, is entitled to exemptions from all license fees and ad valorem taxes on such motor vehicle provided the veteran keeps the vehicle only for private use.
- [Ala. Code § 40-12-254](#) – motor vehicles issued to disabled veterans.

### Driver Licenses

- As of May 1, 2013, Alabama veterans can display proof of military service on their driver licenses.
- To establish proof of service, a veteran must visit one of the Alabama Department of Public Safety's Driver License examining offices and present a Record of Separation Honorable Discharge or DD-214 form from the U.S.

Department of Defense that reflects their discharge was “honorable” or “general under honorable conditions.”

- There is no additional charge for the veteran designation for a first-time driver license applicant or for an individual seeking to renew his or her license.
- A veteran who chooses to add the designation before his or her renewal date, however, must pay \$18.50 for a duplicate license.
- **For more information, visit:**

<http://www.va.state.al.us/license.aspx>

<http://dps.alabama.gov/home/wfContent.aspx?ID=30&PLH1=plhDriverLicense-Veterans>

#### Disabled Military Veteran’s Appreciation Freshwater Fishing Licenses

- Alabama allows a discounted fishing license to fish the freshwaters of Alabama for a veteran that is an Alabama resident and is certified by the USDVA to be 20% or more disabled. The veteran is required to present certification of the disability from the USDVA. The discounted license can be issued at an Alabama Wildlife and Freshwater Fisheries District Office, Probate Office, or License Commissioner’s Office.
- [Ala. Code § 9-11-54](#) – special fishing license for totally disabled persons.

#### Disabled Veteran 3-Day Event Fishing Licenses

- Effective with the license year beginning on September 1, 2013, there is a Physically Disabled Military Veteran's Appreciation three-day trip event license for events sanctioned by the Commissioner of Conservation and Natural Resources.
- This three-day trip event license permits up to 10 U.S. military veterans, who are either residents of Alabama or non-residents, whose names will be designated on the license and who are certified by the U.S. Veterans' Administration as 50 percent or more physically disabled to purchase the license as an alternative to a trip hunting license.
- The license fee is equal to the nonresident all game three-day hunting license, which is \$118, plus the applicable issuance fee.

- The duration of the license is the same as that of the nonresident all game three-day hunting license, which is a period not to exceed 72 consecutive hours from the beginning date and time.
- [Ala. Code § 9-11-49\(2\)](#) – Physically Disabled Military Veteran’s Appreciation three-day trip event license.
- **For more license information and applications, contact:**  
Outdoor Alabama at 1-888-848-6887.

Disabled Veteran Special Hunting Licenses

- To apply for a resident hunting license, an individual must be between the ages of 16 and 65, have lived in Alabama continuously for no less than 90 days, and is not serving as a member of the military during any period of time in which the United States of America is in a state of war.
- Effective with the license year beginning on September 1, 2013, U.S. military veterans who meet the requirements for a resident hunting license and are certified by the U.S. Veterans' Administration as 50% or more physically disabled are entitled to purchase an alternative resident hunting license to be known as the Physically Disabled Military Veteran's Appreciation Hunting License. This license is available for one-half of the cost of the annual resident all-game hunting license plus the applicable issuance fee.
- Effective with the license year beginning on September 1, 2014, U.S. military veterans who meet the requirements for a resident hunting license and are certified by the U.S. Veterans' Administration as 100%, service-connected, permanently and totally disabled are entitled to purchase an alternative resident hunting license, which is known as the 100 Percent Disabled Military Veteran's Appreciation Hunting License. The license has a fee of two dollars (\$2), plus the applicable issuance fee, which fees shall be subject to adjustment as provided for [Alabama Code Section 9-11-68](#).
- The veteran is required to present certification of the disability from the USDVA.
- [Ala. Code § 9-11-44\(a\)](#) – hunting licenses.
- **For more license information and applications, contact:**  
Outdoor Alabama at 1-888-848-6887

## EDUCATION BENEFITS

- State schools are required to adopt procedures for granting veterans enrolled in courses as part of their military education, training, or service academic credit for military education, training, and experience determined to be within the school's role, scope, and mission. [Ala. Code § 31-12A-2](#) – occupational licenses based on military education, training, or service.

### Alabama G.I. and Dependents' Educational Benefit Act [Ala. Code § 31-6-1, et seq.](#)

- A veteran who was an Alabama resident for at least one year before entering the military and who served for at least two years, or who served less than two years for reasons other than a dishonorable discharge due to disability related to military service, can take any course from a state school without payment of any fees.
  - The veteran must use this benefit within four years of military discharge.
  - A veteran cannot receive this benefit while also receiving federal educational benefits or if already received the maximum federal benefits.
  - [Ala. Code § 31-6-8](#) – entitlement of veterans to educational benefits for extension or correspondence courses
- To take advantage of these benefits, an application must be send to the Alabama Department of Veterans Affairs (ADVA). [Ala. Code § 31-6-10](#) – application for benefits.
  - The application must include:
    - Identification;
    - That the veteran was a permanent resident of Alabama for at least one year before entering the military;
    - An honorable discharge, other honorable termination if served for at least two years, or proof of an honorable termination if served less than two years for reason of a service related disability.
  - [Ala. Code § 31-6-11](#) – proof applicants must submit for benefits.

- **For more information, visit:**

<http://www.va.state.al.us>

- As of the fall semester of the 2014-2015 academic calendar, it is not required that the veteran served during wartime or under extrahazardous conditions to receive these benefits. [Ala. Code § 31-6-11\(d\)](#) – proof applicants must submit for benefits.
- Veterans must meet all requirements for admission to the state school where they wish to receive these education benefits. [Ala. Code § 31-6-16](#) – entrance requirements of educational institutions not affected.

#### Waiver of Undergraduate Tuition and Fees for Purple Heart Recipients

- Public institutions of higher education in Alabama, which includes two-year and four-year postsecondary technical colleges, community colleges, and junior colleges, may waive tuition and fees for Purple Heart recipients.
- The Purple Heart recipient must enroll in a fulltime undergraduate degree or certificate program, be a resident of Alabama currently and when awarded the Purple Heart, and submit a DD-214 form from the end of service to document receipt of the Purple Heart.
- The waiver applies to 125% of the required credit hours for the veteran's undergraduate program.
- The veteran must satisfy the admission and academic requirements for the school to retain the waiver.
- This tuition and fee waiver applies in addition to other education benefits. It is invoked only after the veteran uses the other available educational benefits
- [Ala. Code § 16-1-43](#) – waiver of undergraduate tuition and fees for Purple Heart recipients.

#### High School Diplomas

- The Alabama State Superintendent of Education can award a standard high school diploma to honorably discharged veterans who served in the military at anytime between the following dates:
  - December 7, 1941 – January 1, 1964
  - June 27, 1950 – January 31, 1955
  - November 15, 1961 – March 28, 1973

- To receive the diploma, a veteran must have been an Alabama resident before entering the military and their military service interrupted their high school attendance and prevented them from graduating.
- Interested veterans or family members should contact the high school principal's office of the veteran's former high school, or the County Superintendent of Education to make application for the diploma.
- [Ala. Code § 16-1-37](#) – issuance of high school diplomas to certain honorably discharged veterans.

**For more information on federal education benefits and required forms, visit:**

<http://www.benefits.va.gov/gibill/>

**Fore more information on state education benefits, visit:**

[http://www.va.state.al.us/gi\\_dep\\_scholarship.aspx](http://www.va.state.al.us/gi_dep_scholarship.aspx)

## **FAMILY LAW AND PROBATE COURT ISSUES**

### Fiduciaries in War Service

- A fiduciary engaged in war service can be removed from that office by petition to a court with jurisdiction. The fiduciary can serve as the fiduciary again after the termination of war service by petition to the court. [Ala. Code § 19-2-2](#) - removal of fiduciary.
- A fiduciary is considered a trustee of a testamentary trust or any express trust, a guardian of a minor's estate, a guardian, committee, or conservator of an incompetent person's estate, an executor of a will, an administrator of a decedent's estate, or an advisor or consultant exercising control over a testamentary or express trust. [Ala. Code § 19-2-1](#) - definition of fiduciary.

### Guardianship for Veterans and Minor Dependents

- A petition for the appointment of a guardian for veterans or their minor dependents who are mentally or physically incapacitated can be filed in a court with jurisdiction either by or on behalf of person who is entitled to an appointment of a guardian. If a petition is not filed within 30 days or if no one is able to file a petition, anyone may file a petition for appointment. [Ala. Code § 26-9-5](#) – procedure for appointment of guardian.

- The petition must include the ward's name, age, and residence, information about the ward's nearest relative, and that the ward is entitled to receive money. [Ala. Code § 26-9-5](#) – procedure for appointment of guardian.
- If the ward is mentally incompetent, the petition must show that the determination was made in accordance with laws and regulations. [Ala. Code § 26-9-5](#) – procedure for appointment of guardian.
- Money shall not be paid to the ward until a certificate of the Veterans' Administration or his representative sets forth the ward's age as a minor or the ward's status as incompetent. This evidence is needed for an appointment. [Ala. Code §§ 26-9-6 and -7](#).
- [Ala. Code §§ 26-9-1 et seq.](#) – guardianship and commitment of incompetent veterans and dependents.

#### Commitment of Incompetent Veteran

- Alabama courts can communicate with the Veterans' Administration of a veterans' hospital about facilities and eligibility when an incompetent veteran requires hospitalization and commitment. After obtaining this information, a court can commit a veteran to a veterans' hospital. Notice must be provided to the committed veteran, who can defend the decision.
- [Ala. Code § 26-9-13](#) – commitment of incompetent veterans to veterans' hospital.

#### Validation of Marriage of Divorced Persons

- Marriages of all persons subsequent to a divorce decree granted in Alabama and not prohibiting the person from remarrying, are declared to be valid, notwithstanding that the decree of divorce did not specifically confer on such person the right to remarry.
- [Ala. Code § 30-2-9](#) – validation of divorced persons.
- Many claims for pension and compensation against the U.S. Department of Veterans Affairs (VA) have been made effective by this law.

#### Wills

- The will of a serviceman executed while in active duty service is admitted to probate when either or all witnesses are out of state when the will is offered for probate or when the witness(es)' address is unknown by oath of at least three credible witnesses that the signature is in the deceased serviceman's handwriting.



- The serviceman's will is effective to divide real property and personal property.
- [Ala. Code § 43-8-167](#) – mode of proving will.

## END OF LIFE BENEFITS FOR VETERANS

### Alabama Veterans Nursing Home

- The Alabama Department of Veterans Affairs (ADVA) operates several veterans' homes through the state that provide nursing care to eligible veterans.
- Eligible veterans may seek admission to a veterans' home by contacting their local county VSO or the State Veterans Homes of their choice to obtain an application.
- [Ala. Code § 31-5A-1, et seq.](#) – state veterans' homes.
- **For more information, visit:**

<http://www.va.gov/directory/guide/state.asp?dnum=ALL&STATE=AL>

### State Veterans Cemetery

- The State Board of Veterans' Affairs has established the Alabama State Veterans/ Memorial Cemetery at Spanish Fort. [Ala. Code § 31-5-3\(d\)](#) – State Board of Veterans' Affairs.
- Veterans, spouses, and dependent children can preregister for their eligibility for burial at no cost and with no obligation to be interred at the cemetery.
- Pre-registration requires a copy of the veteran's discharge certificate (DD Form 214) and a copy of married veterans' marriage certificate.
- Contact Tony Ross, Cemetery Director, or Joseph Buschell, Assistant Cemetery Director, by phone at (251) 625-1338.
- **For more information, visit:**

<http://www.va.state.al.us/spanishfort.aspx>

## **BENEFITS FOR VETERANS' AND SERVICEMEMBERS' FAMILIES**

### Tax Benefit for Surviving Spouses

- The home of any veteran that was acquired pursuant to Public Law 702, 80th Congress, as amended (38 U.S.C.A. 701 and Chapter 12), no matter its value, is exempt from all ad valorem taxation so long as the home is owned and occupied as a home by the veteran or his/her unremarried surviving spouse. [Ala. Code § 40-9-20](#) – certain homes owned by veterans or their widows.
- As of January 1, 1989, all survivor benefits derived from military service are exempt from state, county, or municipal income tax. [Ala. Code § 40-18-20](#) – income tax exemptions for military retirement benefits.

### Foreclosure Proceedings After Service Member's Death While in Active Duty

- If a servicemember dies while deployed on active duty, a foreclosure procedure cannot be initiated against the surviving spouse or servicemember's estate for at least 180 days. To have this delay, the surviving spouse or estate needs to send the mortgagee written notice, including the servicemember's death, details of the mortgage or debt, contact information, and a request for a six-month delay of foreclosure. [Ala. Code § 35-10-71\(a\)](#) – no foreclosures for 180 days after deployed servicemember's death.
- If the surviving spouse or estate follows this procedure and a person violates this mandated delay, he is subject to a \$2,000 fine by the Attorney General. [Ala. Code § 35-10-71\(b\)-\(c\)](#) – penalty for violating this foreclosure rule.
- This temporary protection from foreclosure only applies to mortgages entered into on or after August 1, 2009. [Ala. Code § 35-10-71\(d\)](#) – mortgages protected by this rule.
- Any civil fines collected for violations of this provision are deposited into the Military Family Relief Fund, which the ADVA may use to assist military families. [Ala. Code § 35-10-71\(c\)](#) – fines from violations of this rule.
- [Ala. Code § 35-10-71](#) – initiation of foreclosure proceedings against surviving spouse or estate of certain mortgagors.
- See also pg. 12 – Foreclosures.

### Absentee Ballots for Voting

- Military personnel, their spouse, and their dependent(s) can request an absentee ballot in writing no later than five days before the election. [Ala. Code § 17-11-3\(a\)\(5\)](#) – absentee ballots.
- They must complete the Federal Post Card Application form (FPCA, Standard Form 76), which they can obtain from the military unit's voting officer. The completed form should be mailed to the Board of Registrars in the county of his/her Alabama permanent address. [Ala. Code § 17-11-3\(a\)\(5\)\(b\)](#) – absentee ballots; [Ala. Code § 17-11-4](#) – form, contents, and filing of absentee ballot application.
- **For more information, visit:**

<http://www.sos.state.al.us/elections/MilitaryOverseas.aspx>

### Surviving Spouse's Use of Military License Plates

- Upon the death of retired military personnel who received a military license plate, the surviving spouse can keep the distinctive plate for one private motor vehicle owned by the surviving spouse for the remainder of life or until remarriage, as long as the surviving spouse continues to payment the required taxes and fees. [Ala. Code § 32-6-292](#) – retired military license plates.
- The recipient of Medal of Honor, Purple Heart, and Prisoner of War license plate may keep the tag for life without re-registering each year. When the veteran dies, the surviving spouse can keep the tag at no fee or tax. However, the surviving spouse of Purple Heart Medal recipients must pay ad valorem taxes for one private motor vehicle owned by the surviving spouse for the remained of the life or until remarriage. [Ala. Code § 32-6-250](#) – license plates authorized for medal of honor recipients and prisoners of war; [Ala. Code § 32-6-254](#) – use of military license plates by surviving spouse.

### Preference in State Classified Employment

- Wives of veterans with service-related disabilities and widows of veterans who were honorably discharged from service or veterans who died in the line of duty may have the 10-point preference extended to them and added to any earned ratings in examination for entrance to the state classified service.
- [Ala. Code § 36-26-15\(b\)](#) – preferences for veterans.

## Alabama G.I. and Dependents' Educational Benefit Act

- Educational Benefits for Children of Deceased or Disabled Veterans or Prisoners of War
  - Children of a servicemember are entitled to five academic years, or the equivalent of 45 months if part-time, of education of education at an Alabama higher learning institution, including state trade schools, for no costs, if their military parent:
    - Was killed or died in the line of duty, is missing in action, is or was a prisoner of war, or died or has permanent total disability due to military service; or
    - Died from a disability incurred from military service who:
      - Was discharged under conditions other than dishonorable and served at least 90 days consecutively, or
      - Was discharged honorably by reason of wartime, service-connected disability after serving less than 90 days; or
    - Has been assigned 100% permanent or total disability by the USVA or was discharged or retired with at least a 20% disability and maintained that percentage (is deemed a disabled veteran).
  - The child must begin their education before their 30<sup>th</sup> birthday. The child must complete his education within 8 years, except for delays caused by military service.
  - [Ala. Code § 31-6-4](#) – educational benefits for children of deceased or disabled veterans or prisoners of war.
- Educational Benefits for Spouses of Deceased or Disabled Veterans or Prisoners of War
  - Similarly, spouses of servicemembers are entitled to five academic years, or the equivalent of 45 months if part-time, of education of education at an Alabama higher learning institution, including state trade schools, for no costs, if their military spouse:
    - Was killed or died in the line of duty, is missing in action, is or was a prisoner of war;

- Died from a disability incurred during service; or,
    - Was permanently and totally disability due to military service.
  - The spouse must complete his education within 8 years, except for delays caused by military service.
  - This educational benefit does not apply when the spouse remarries before applying for and receiving the benefit. If the spouse remarries while receiving the benefit, the benefit ends at the time of the remarriage and the spouse must pay for tuition and fees.
  - As of the fall semester of the 2014-2015 academic calendar, the tuition and fee waiver applies to undergraduate studies and the value of tuition is based on the in-state public college or university attended. Students presently enrolled in the program will not have any change in their benefits.
  - These benefits are available in addition to federal benefits.
  - [Ala. Code § 31-6-5](#) – educational benefits for spouses of deceased or totally disabled veterans or prisoners of war.
- Educational Benefits for Spouses and Children of Partially Disabled Veterans; Reinstatement of Entitlements
- Where a servicemember who is between 20 and 90 percent disabled due to military service or of a deceased servicemember who was more than 20 percent disabled at time of death due to military service:
    - The spouse or unmarried widow(er) is entitled to 27 months, or the equivalent of 27 months if part-time, of education at an Alabama higher learning institution, including state trade schools, for no cost. The study must end within 6 years of beginning the two-year course.
    - Each child of the disabled veteran is entitled to five academic years, or the equivalent of 45 months if part-time, of education at an Alabama higher learning institution, including state trade schools, for no cost. The child must begin their studies before their 26<sup>th</sup> birthday and must complete their studies within 8 years. A child cannot receive these benefits after their 34<sup>th</sup> birthday.

- As of the fall semester of the 2014-2015 academic calendar, the tuition and fee waiver applies to undergraduate studies and the value of tuition is based on the in-state public college or university attended.
  - Students presently enrolled in the program will not have any change in their benefits.
- These benefits are available in addition to federal benefits. The remainder of the child, spouse, or unmarried widow(er)'s benefits will be reinstated if denied full entitlement.
- [Ala. Code § 31-6-6](#) – educational benefits for spouses and children of partially disabled veterans and reinstatement.
- To take advantage of these benefits, an application must be sent to the Alabama Department of Veterans Affairs (ADVA). [Ala. Code § 31-6-10](#) – application for benefits.
  - The application must include:
    - Identity as relative of veteran;
    - That the veteran was a permanent resident of Alabama for at least one year before entering the military or that the veteran has been a resident of Alabama for the five years before filing an application for these benefits or before death, if the veteran is deceased; and
    - That a veteran who served at least 90 days was honorably discharged or other honorable termination or that a veteran who served less than 90 days was discharged due to the disability incurred related to military service.
- All benefits do not last beyond the lives of the veteran's children. [Ala. Code § 31-6-7](#) – educational benefits limited to lives of veterans' immediate children.
- As of the fall semester of the 2014-2015 academic calendar, it is not required that the veteran served during wartime or under extrahazardous conditions for the veteran's spouse, unmarried widow(er), or children to receive these benefits. [Ala. Code § 31-6-11\(d\)](#) – proof needed submitted in applications for benefits.
  - Dependents previously denied education benefits based solely on the veterans' peacetime service dates must reapply by August 1, 2015, to receive the full benefit.

- If the benefits of wife, widow, or dependent of a veteran is interrupted due to an accident, injury, or illness, the time period that is lost will be restored for continued use of the benefit. [Ala. Code § 31-6-9](#) – benefits for wives, widows, and dependents in addition to other benefits and interruption of benefits.
- Spouses, widow(ers), and children must meet all requirements for admission to the state school where they wish to receive these education benefits. [Ala. Code § 31-6-16](#) – entrance requirements of educational institutions not affected.
- [Ala. Code § 31-6-1, et seq.](#) – veterans’ and dependents’ educational benefits.

**For more information on federal education benefits and required forms, visit:**

<http://www.benefits.va.gov/gibill/>

**Fore more information on state education benefits, visit:**

[http://www.va.state.al.us/gi\\_dep\\_scholarship.aspx](http://www.va.state.al.us/gi_dep_scholarship.aspx)

## **OVERVIEW AND PURPOSE OF ALABAMA VETERANS EXECUTIVE NETWORK COMMISSION (ALAVETNET)**

Governor Robert Bentley created the Alabama Veterans Executive Network Commission, known as AlaVetNet, in December 2013. AlaVetNet aims to assist veterans, servicemembers, and their families throughout the state with employment, homelessness, health care, education, and legal issues. AlaVetNet is led by commissioners from various groups, including the Alabama Department of Mental Health and the Alabama Department of Veterans Affairs.

**The Commissioners released the AlaVetNet Long-Range Plan in June 2014, which can be accessed at:**

<http://governor.alabama.gov/assets/2014/10/AlaVetNet-Long-Range-Plan.pdf>

**To view the Executive Order signed by Governor Bentley to create AlaVetNet, visit:**

<http://governor.alabama.gov/assets/2013/12/EO-42-AlaVetNet.pdf>

**To view the Governor Bentley's press release about AlaVetNet, visit:**

<http://governor.alabama.gov/newsroom/2013/12/governor-bentley-creates-commission-address-delivery-services-veterans/>