

Legal Residence and Domicile

The material in this handout represents general legal principles. The law is continually changing; although the information in the handout was current as of the date it was drafted, some provisions in this pamphlet may have changed. It is always best to consult an attorney about your legal rights and responsibilities regarding your case.



The Servicemembers Civil Relief Act (SCRA) ensures that military members do not lose their domicile merely by joining the service and moving in response to military orders. Members may retain their domicile until their actions indicate they intend to change it.

This pamphlet answers frequently asked questions about changing legal residency. Because changing one's residency can have serious consequences, you should contact the legal office for advice on specific questions.

Definitions-

The terms "home of record," "domicile," "legal residence", and "residence" are often confused. Your home of record generally cannot be changed because this is the place you were living when you entered the military, but your domicile, legal residence, and residence may change.

Generally, the terms "domicile" and "legal residence" refer to the same concept and place – the state you consider your permanent home. On the other hand, your "residence" is simply where you are living at a particular time. A member might live in many different states during their career while they PCS from place to place – establishing residency each time their home address changes – but maintain their domicile and legal residency in a different state throughout their career.

How do I change my domicile?

A person acquires a new domicile by being physically present in a state and demonstrating an intent to reside there permanently. Individuals in the military must intend to return to that state as their permanent home following their period of military service. A variety of factors are considered when deciding where an individual is domiciled, including where he/she: owns property, registers to vote and actually votes, registers motor vehicles, maintains a driver's license, and pays state income tax.

Purchasing or renting a home in a new state following a PCS, or obtaining a new driver's license, does not necessarily indicate an intent to change your domicile. However, increasing your connections with a state will likely indicate an intent to change domicile. Thus members should vote, exercise their rights, and claim benefits in the state where they intend their domicile to be.

Special considerations for military spouses.

The Military Spouses Residency Relief Act (MSRRA) amended the Servicemembers Civil Relief Act (SCRA) and changed residency and domicile rules for military spouses. The law allows spouses to use their servicemember's

state of legal residency as their own, for state and local taxes and voting purposes, regardless of date of marriage. That means they can “inherit” their spouse's state of legal residency without being physically present in that state.

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