

ALLOW PUBLIC ACCESS TO VETERANS' DISCHARGE RECORDS

House Bill 5115 (Substitute H-2) First Analysis (11-4-97)

Sponsor: Rep. David Anthony
**Committee: Senior Citizens and Veterans
Affairs**

THE APPARENT PROBLEM:

Currently, military service discharge records are confidential and can only be reviewed by a veteran, his or her family members, or persons working with various military service organizations that assist veterans in filing for veterans benefits. Even records dating to Michigan's earliest days are sealed to the general public. Although most military service records are available from the national archives for a modest fee, the lack of local access to military records for those people doing genealogical research or writing historical accounts of their towns or counties can delay and sometimes thwart entirely their research efforts. In order to provide for easier access to the information contained in military service discharge records, legislation has been proposed that would, among other things, allow for public access to portions of military service records that are more than 70 years old.

THE CONTENT OF THE BILL:

Under current law, county clerks are required to record the military discharges of members of the armed forces and members of women's auxiliaries. The military service discharge records are confidential and may be viewed or copied only by the veteran, his or her heirs, or a person having the veteran's permission. A copy of the service discharge must also be given to a veteran's service officer, the Michigan Veterans Trust Fund, or a county Department of Veterans' Affairs employee when access to the record is needed to assist a veteran, or his or her spouse or dependents, in applying for veterans' benefits.

House Bill 5115 would, among other things, allow for public access to military service records over 70 years old. Specifically, a county clerk could make available to the general public information that includes the name, rank, unit of military service, dates of military service, medals, and awards conferred upon each individual identified in the record. The bill would define "70 years old" as meaning "70 years from the date of the first

discharge from military service of the individual identified in the record".

More specifically, the bill would specify that a county clerk could do the following:

- * For records at least 70 years old, make the information specified above available to the general public.

- * Charge the person requesting the information (except a veteran, his or her family member, or an agent of the government acting on behalf of a veteran) for the discharge records.

- * Provide access to view or reproduce service records, in accordance with provisions of the Records Media Act (MCL 24.401 to 24.403), to a veteran; the veteran's surviving heirs; a person having the veteran's permission; or a veteran's service officer, the Michigan Veterans Trust Fund, or a county Department of Veterans' Affairs employee when access to the record is needed to assist a veteran, or his or her spouse or dependents, in applying for veterans' benefits. (*Note:* The Records Media Act provides, among other things, that a governmental entity or official acting in his or her official capacity may reproduce a record by photograph, photocopy, microcopy, or optical storage disc.)

MCL 35.32

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, there should be no state fiscal impact. Further, there should be little or no local fiscal impact. (10-21-97)

ARGUMENTS:

For:

For people tracing their ancestors, the bill's provision to allow public access to certain information that is found in service records over 70 years old will help streamline

their efforts. Reportedly, it can take several months to receive similar information from the National Archives. For non-family members, such as someone wishing to record the history of their county or town, access to these informative records would be denied. Further, there is little reason to fear an invasion of privacy after 70 years, since the bill is drafted to allow for the release of information concerning veterans discharged before 1927. Making portions of these records open to the public after this time period is in line with other records such as census records and Civil War pension applications, which are available at the state library.

Response:

Though seeming to be a boon to those doing genealogical research, some feel the bill's provision to allow public access to portions of records over 70 years old constitutes an invasion of privacy. They argue that unless a person can show a good reason to obtain access to a record of a non-relative, the files should continue to be kept confidential. They point out that historical research would seldom if ever be curtailed since students and scholars doing research at a university or college usually have different means of access to information about the people they study. Those who make a privacy argument note that information in a discharge record about what a person does or fails to do in times of war or under the stress of military service could be sensitive, and that it is very different from the information provided in a census record or pension application. To open even portions of these files for casual reading is unwise. The bill is simply unnecessary and possibly in conflict with other statutes safeguarding the confidentiality of personal records.

Against:

Even though veteran's service officers, the Michigan Veterans Trust Fund, and county Department of Veterans' Affairs employees assist veterans in applying for veterans' benefits, the language in the bill represents a shift from requiring that a copy of a military service record be provided, to allowing county clerks to provide such records to these people. Though some believe that it would be unlikely for a county clerk to refuse copies of service records to these agencies, there is no guarantee that the current level of service would continue to be provided to these agencies in the future. In fact, because the current act states that a military service discharge record of a person "may be viewed or copied only by the veteran, a person with the veteran's permission, or the surviving heirs of a veteran", some county clerks have reportedly refused to give copies of a military service record to a veteran or his or her family members. The person often then turns to the above-mentioned military service agencies for assistance in obtaining the necessary records in order to file for various benefits. By removing the current mandatory provision for representatives of the

service agencies to receive copies of records, the possibility exists for the agency to also be refused a copy of a record. Military discharge service records can be obtained on a federal level, but it is reported that the process is much lengthier and can take up to six months. This would be an unnecessary hardship for a veteran or spouse of a deceased veteran trying to apply for medical, burial, or other benefits available to them.

Response:

The possibility that county clerks might deny legitimate veterans affairs officials access to veterans records seems remote. However, to better ensure a smooth working relationship between these county-level officials, the bill would preclude a county clerk from charging county veterans affairs officials for copies of the veterans discharge records.

POSITIONS:

The Department of Military and Veterans Affairs supports the bill. (10-30-97)

The Sons of Union Veterans of the Civil War support the bill. (10-29-97)

The American Legion supports the bill. (10-29-97)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.