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SFA**BILL ANALYSIS**

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House Bill 4874 (Substitute H-1 as passed by the House)
Sponsor: Representative Tony Stamas
House Committee: Civil Law and the Judiciary
Senate Committee: Judiciary

Date Completed: 2-26-02

CONTENT

The bill would amend the Freedom of Information Act (FOIA) to allow a public body to exempt from disclosure under the Act "directory information" as defined in the Federal Family Educational Rights and Privacy Act (FERPA). Currently, FOIA requires that a public body exempt from disclosure information that, if released, would prevent the public body from complying with FERPA. The bill would retain that provision.

The bill would not authorize the withholding of directory information, however, if a request for directory information were made by a recognized news organization for the purpose of gathering or preparing news for broadcast or publication. The bill also would not authorize the withholding of directory information regarding a student who was employed at an institution of higher education, if a request for that information were made by a collective bargaining organization seeking to organize or service a collective bargaining unit. A collective bargaining organization or unit that obtained directory information under the bill could use it only for collective bargaining purposes and could not sell the directory information to another person.

Under FERPA, "directory information" relating to a student includes the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student (20 USC 1232g).

MCL 15.243

BACKGROUND

Public Act 88 of 2000 amended FOIA to require a public body to exempt from disclosure information that, if released, would prevent the public body from complying with FERPA. Under FERPA, Federal funds may not be made available under any applicable program to any educational agency or institution that has a policy or practice of permitting the release of education records or personally identifiable information contained in education records, other than directory information, without the written consent of the students' parents, except as provided in the Act.

Before the enactment of Public Act 88, if a school district had not adopted a policy to exempt FERPA-protected information from FOIA disclosure, it was placed in a position of either violating FOIA (by not releasing information) or being out of compliance with FERPA (by releasing the information). In an attempt to prevent this dilemma for school districts, Public Act 88 requires school districts to exempt FERPA-protected information from disclosure.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Kathryn Summers-Coty