



**House
Legislative
Analysis
Section**

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**ALLOW PUBLIC ACCESS TO
VETERANS' DISCHARGE RECORDS**

**House Bill 5228 as passed by the House
Second Analysis (6-12-96)**

**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. For people doing genealogical research or writing historical accounts of their towns or counties, the lack of access to the information contained in the older records can stop a project in its tracks. 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 records 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 5228 would, among other things, allow for full public access to military service records over 70 years old. 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 information in the record 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; his or her spouse or 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 Department of Military Affairs, the bill as passed by the House could result in an additional cost to the department and the Veterans Trust Fund. As a public service, the Veterans Trust Fund has traditionally provided copies of discharge records in cases where they are unavailable at the county level. The cost of providing this service is nearly \$10,000 a year for supplies alone. As counties would no longer be required to provide such records, it is anticipated that such requests to the state would increase, and thus the cost to the state could escalate. (4-22-96)

ARGUMENTS:

For:

For people tracing their ancestors, the bill's provision to allow public access of 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

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denied. Further, there is no reason to keep these records secret after 70 years. Making 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, many feel the bill's provision to allow public access to records over 70 years old constitutes an invasion of privacy. 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. Currently, people doing research at a university or college level, or legitimate historians, usually have means to access information about the people they are researching. Information in a discharge record about what a person does or doesn't do in response to the circumstances present in times of war or the stresses of military service is very different from the information provided in a census record or pension application. To open up these files for casual reading is unconscionable. 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.

POSITIONS:

The American Legion supports the bill. (5-2-96)

The County Clerks Association does not have a formal position on the bill. (4-11-96)

The Department of Military Affairs does not support the bill. (4-22-96)

Analyst: S. Stutzky

■ 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.