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## ACCESS TO HIGH SCHOOL CAMPUS & STUDENT DIRECTORY FOR MILITARY RECRUITERS

### House Bill 5139 (Substitute H-1) First Analysis (10-16-01)

**Sponsor: Rep. Wayne Kuipers**  
**Committee: Education**

#### ***THE APPARENT PROBLEM:***

According to committee testimony, and in an article called "The War for Recruits" published in *The American Legion Magazine* in April 2001, the United States "Air Force is short 1,200 pilots; the Navy is protecting the seas despite 12,000 empty billets; the Army has endured perhaps its worst recruiting stretch in a generation, falling short by 800 soldiers in 1998 and a staggering 6,500 in 1999; and after a decade of cutting and deploying and making do, the military's ranks have shrunk by 700,000."

In their efforts to recruit 16-, 17-, and 18-year-old people to enlist in the branches of the armed services, military recruiters say they need greater access to high school campuses, as well as to student directory information. With access to students, the recruiters hope to persuade them to enlist after graduation, or in the case of the National Guard, to sign a letter of commitment during their junior year.

In February 2000, the Senate Armed Services Committee of the U.S. Congress completed hearings in an effort to determine whether recruiters were being barred from high school campuses, and learned that 600 of America's 21,000 secondary schools (less than 3 percent) ban military recruiting. There were no reports of recruiters being barred from the 622 high schools in Michigan. However, the responses from an informal electronic survey of current practices undertaken by the Michigan Association of Secondary School Principals (in which an open-ended question about school-based recruitment protocols was posed via e-mail to MASSP members) indicate that the various recruiting arrangements are cautiously administered by school officials in order to protect their students' privacy, in compliance with the federal Family Educational Rights and Privacy Act, sometimes known as FERPA. See *BACKGROUND INFORMATION* below.

In order to ensure that all of Michigan's high school students can be approached by military recruiters, legislation has been introduced.

#### ***THE CONTENT OF THE BILL:***

House Bill 5139 would amend the Revised School Code to require school officials of a public high school to provide at least the same access to the high school campus and to pupil directory information for official armed forces recruiters as is provided to other entities offering educational or employment opportunities, in order to tell students about the educational and career opportunities available, both in the armed forces and in the service academies. The bill defines "pupil directory information" to mean a pupil's name, address, and telephone number, if that telephone number is listed or published.

House Bill 5139 also specifies that if a high school student or the parent or legal guardian of a student submits a written request to school officials that indicates they do not want the student's directory information to be accessible to recruiters, then access to that information would be prohibited. Further and under the bill, the governing board of a school district, intermediate school district, or public school academy would be required to ensure that students, parents, and guardians were notified of these provisions. The bill would also require that school officials provide any public notice that is required by the Family Educational Rights and Privacy Act of 1974.

Under the bill, school officials could require recruiters to pay a fee for copying and mailing student directory information; however, the amount of that fee could not exceed the actual costs incurred to provide the information. The bill also specifies that a recruiter could use the directory information only to provide information to students concerning educational and career opportunities. A recruiter

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who received directory information would be prohibited from releasing the information to a person who was not involved in recruiting.

Under House Bill 5139, public schools would be encouraged to assign one or more school employees to notify male students age 18 or older that they are required to register for the selective service. Further, the armed forces recruiters would be encouraged to work with each other to develop and use a standardized form for requesting access to a high school campus, and for requesting a time for the access.

Finally, the bill defines “armed forces of the United States” to mean the armed forces of the United States and their reserve components and the United States Coast Guard.

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### ***BACKGROUND INFORMATION:***

Privacy protections for students. According to an article entitled “Access to Student Records by Military Recruiters” published in September 2000, school law expert Lisa L. Swem of the law firm Thrun, Maatsch & Nordberg, writes that “two existing federal laws, as well as the Michigan Freedom of Information Act clearly address the rights and responsibilities of school officials regarding the disclosure of student record information to military recruiters.” She then describes conditions under which personally identifiable information from a student’s education record can be released, given the consent and disclosure requirements of the federal law known as the Family Educational Rights and Privacy Act (FERPA).

Generally, FERPA prohibits the disclosure of personally identifying information from a student’s educational record, unless prior written consent is obtained. There is no exemption for military recruiters. However, FERPA permits the release of student “directory information” without prior written consent, if the district first provides an annual notice of the following information: the types of personally identifiable information that have been designated as directory information; the right to object to the release of designated directory information; and the period of time by which a parent or eligible student must notify the school in writing that designated directory information should not be released.

According to Swem, once notice and a reasonable opportunity to respond is provided, school officials

may disclose the designated directory information, unless the student’s parent objects to the disclosure. [FERPA defines “directory information” as: Information contained in an educational record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to 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.] Because the type of information generally requested by military recruiters (i.e., names, addresses, and telephone numbers) may be designated as directory information, school officials may disclose this information only if the FERPA designation and notice requirements have been met.

Swem also reviews the law concerning the authority of the secretary of defense to collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade [10 USC 503(b)(1)], and a 1999 amendment to that law which provides that “each local educational agency is requested to provide to the Department of Defense, upon a request made for military recruiting purposes, the same access to secondary school students, and to directory information concerning such students, as is provided generally to post-secondary educational institutions or to prospective employers of those students.” [10 USC 503(c)] Swem points out that this “request” to provide directory information does not abrogate the school’s responsibility to comply with FERPA.

Finally, Swem notes that Michigan’s Freedom of Information Act specifically provides that public agencies may not release information which would prevent the public body from complying with FERPA. Accordingly, a release of information is possible when it is consistent with FERPA privacy protections.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes the bill has no fiscal impact on the state. (10-11-01)

### ***ARGUMENTS:***

#### ***For:***

An all-volunteer force, comprising military recruits in all branches of the armed forces, doesn’t happen

without effort. The young people who might volunteer to serve must first be recruited. Indeed, each year the military spends \$2 billion on recruitment, and \$268 million on advertising. During the recruitment process, young people can learn about the education and employment opportunities that are available to them after they enlist, and after doing so, some are persuaded that service in the military meets their career goals. Consequently, in order to inform and persuade recruits, it is important that members of the armed services be able to talk to young people at school, when they have career counseling and an array of options available to them, as well as the advice of their peers, parents, and other adults. This legislation would give military recruiters the access they need to students on campus, as well as their mailing addresses and telephone numbers.

***For:***

This legislation was substantially improved by committee amendments. For example, one amendment adopted in committee ensures that the rights of privacy guaranteed to students by the federal Family Educational Rights and Privacy Act (FERPA) are protected. Another amendment encourages military recruiters from the different armed services to coordinate their recruitment efforts at a particular school, thus limiting their disruption of teaching and learning.

***Against:***

Private schools would not be obliged to comply with this legislation. Consequently, private school students likely will be denied the opportunity to learn about the educational and employment benefits of the armed services branches while at high school.

***Against:***

A volunteer force attracts a disproportionate number of poor students, and allows those who are financially able and college-bound to avoid military service. Two more equitable alternatives to the volunteer force would be the reinstatement of the military draft and draft lottery, or in the alternative, a policy which makes mandatory a one-year enlistment for all 19-year-olds.

***Response:***

Access to high school campuses and student directory information would likely be necessary in order to implement these policy alternatives, as well.

***POSITIONS:***

The Department of Military and Veterans Affairs supports the bill. (10-11-01)

The Michigan Association of Secondary School Principals supports the bill. (10-11-01)

The Michigan Education Association supports the bill. (10-11-01)

The American Legion supports the bill. (10-11-01)

Analyst: J. Hunault

■ 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.