



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5963 (Substitute H-1 as passed by the House)
Sponsor: Representative Gino Polidori
House Committee: Military and Veterans Affairs and Homeland Security
Senate Committee: Senior Citizens and Veterans Affairs

Date Completed: 5-8-08

CONTENT

The bill would create a new act entering Michigan into the Interstate Compact on Educational Opportunity for Military Children. The Compact does all of the following:

- Specifies its purpose and applicability.
- Requires that students be allowed to continue their enrollment at grade level in the receiving state, and provides for the transfer of records from the sending state.
- Requires Compact states to give 30 days from the date of enrollment for students to obtain required immunizations.
- Establishes standards for students' placement in courses, and for the provision of special education services.
- Requires that a student be granted additional excused absences to visit with his or her parent or guardian called to duty for, on leave from, or immediately returning from combat deployment.
- Establishes standards for enrollment, extracurricular participation, and graduation.
- Requires each member state to have a State Council, which must appoint or designate a liaison to assist military families and states in facilitating the Compact's implementation.
- Specifies that member states create the Interstate Commission on Educational Opportunity for Military

Children as a joint agency of the member states, and identifies its powers and duties.

- Provides for the financing of the Interstate Commission through annual assessments on member states.
- Establishes the Compact's effective date as the date on which 10 states become Compact members.
- Provides for states' withdrawal from the Compact and the dissolution of the Compact upon the withdrawal of all but one member state.
- Specifies that the Compact, rules promulgated under it, and all lawful actions of the Interstate Commission are binding upon the member states.

The bill also would require the Governor to appoint Michigan's representative to the Interstate Commission.

The following is a detailed overview of the Compact, as contained in the bill.

Definitions

"Children of military families" means school-aged children enrolled in kindergarten through 12th grade, in the household of an active duty member. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric

Administration, and Public Health Services. "Deployment" means the period one month before a service member's departure from his or her home station on military orders through six months after his or her return.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

Purpose & Applicability

The Compact states that its purpose is "to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents".

The Compact applies to the children of all of the following:

- Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders.
- Members or veterans of the uniformed services who are severely injured and medically discharged or retired, for one year after medical discharge or retirement.
- Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for one year after death.

Educational Records & Enrollment

The Compact defines "receiving state" as the state to which a child of a military family is sent, brought, or caused to be sent or brought. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

The Compact requires the custodian of records in the sending state to prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission, if the official education records cannot be released to the parents for the purpose of transfer. A school in the receiving state that receives the unofficial records must enroll and appropriately place the student based on

those records as quickly as possible, pending validation by the official records. The school must request the student's official education records from the school in the sending state, which must process and furnish those records within 10 days or within a time reasonably determined under the rules promulgated by the Commission.

Compact states must give 30 days from the date of enrollment, or such time as is reasonably determined under the Commission's rules, for students to obtain any immunizations required by the receiving state.

Students must be allowed to continue their enrollment at grade level in the receiving state. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade in the receiving state, regardless of age.

Placement & Attendance

When a student transfers before or during the school year, the receiving state school initially must honor placement in courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending states, if the courses are offered. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment.

In compliance with Federal requirements of the Individuals with Disabilities Education Act, the receiving state initially must provide comparable services to a student with disabilities based on his or her current individualized education program. In compliance with the requirements of the Federal Rehabilitation Act, and with Title II of the Americans with Disabilities Act, the receiving state must make reasonable accommodations and modifications to address the needs of incoming students with disabilities to provide them equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of a student.

A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is

on leave from, or immediately returned from deployment to a combat zone or combat support posting, must be granted additional excused absences, at the discretion of the local superintendent, to visit with his or her parent or guardian.

Enrollment, Extracurricular Participation, & Graduation

Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, must be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent. A local education agency may not charge local tuition to a transitioning military child placed in the care of a noncustodial parent or other person who lives in a jurisdiction other than that of the custodial parent. A transitioning military child, placed in the care of a noncustodial parent or other person who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

State and local education agencies must facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent the students otherwise are qualified.

The Compact also specifies requirements for states and local education agencies to facilitate the on-time graduation of children of military families, including waivers of certain course requirements, acceptance of exit exams or other alternative testing, and allowing a diploma to be issued by the school in the sending state for a student transferring during his or her senior year.

State Coordination

Each member state of the Compact must have a State Council whose membership includes at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council considers appropriate. The State Council must appoint or designate a military family

education liaison to assist military families and the state in facilitating the implementation of the Compact.

Interstate Commission

Under the Compact, the member states create the Interstate Commission on Educational Opportunity for Military Children. The Commission must be a joint agency of the member states and consist of one voting representative from each member state. The Commission also must include ex-officio, nonvoting representatives who are members of interested organizations. These may include members of representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

The Interstate Commission must collect standardized data concerning the educational transition of the children of military families under the Compact. It also must create a process that allows military officials, education officials, and parents to inform the Commission if and when there are alleged violations of the Compact or when issues subject to its jurisdiction are not addressed by the state or local education agency.

The Compact further describes the Interstate Commission's powers and duties, and requirements for its organization and operation.

The Commission must promulgate reasonable rules in order to achieve the Compact's purposes effectively and efficiently. Rules must be made pursuant to a process that substantially conforms to the "Model State Administrative Procedure Act". Within 30 days after a rule is promulgated, any person may file a petition for judicial review, but the filing will not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court must give deference to the actions of the Commission consistent with the applicable law and may not find the rule to be unlawful if it represents a

reasonable exercise of the Commission's authority. If the majority of the legislatures of the compacting states rejected a rule by enactment of a statute or resolution in the same manner used to adopt the Compact, the rule will have no further force and effect in any Compact state.

Oversight, Enforcement, & Dispute Resolution

The executive, legislative, and judicial branches of state government in each member state must enforce the Compact and take all actions necessary and appropriate to effectuate its purposes and intent. The Compact and rules promulgated under it will have standing as statutory law.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, the bylaws, or promulgated rules, the Commission must take enforcement actions specified in the Compact.

Upon the request of a member state, the Commission must attempt to resolve disputes that are subject to the Compact and that arise among member states and between member and nonmember states.

The Interstate Commission, in the reasonable exercise of its discretion, must enforce the Compact and its rules. The Commission, by majority vote of its members, may initiate legal action in the U.S. District Court for the District of Columbia or, at the discretion of the Commission, in the Federal district where the Commission has its principal offices, to enforce compliance with the Compact against a member state in default. Relief sought may include both injunctive relief and damages, and the prevailing party in judicial enforcement must be awarded all costs of litigation including reasonable attorney's fees. The remedies in the Compact are not exclusive remedies of the Commission, which may avail itself of any other remedies available under state law or the regulation of a profession.

Financing of the Interstate Commission

The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of its

operations and activities, including staff. The total amount must be sufficient to cover the Commission's annual budget as approved each year. The Commission must determine a formula to allocate the aggregate annual assessment.

The Commission may not incur obligations before securing the funds adequate to meet them. It also may not pledge the credit of any of the member states, except by and with their authority. The Commission must keep accurate accounts of all receipts and disbursements, which must be subject to audit and accounting procedures established by its bylaws. All receipts and disbursements of funds handled by the Commission must be audited annually by a certified or licensed public accountant. The report of the audit must be included in the Commission's annual report.

Member States, Effective Date, & Amendment

Any state is eligible to become a member state. The Compact will become effective and binding upon its legislative enactment by at least 10 states. After that, the Compact will become effective and binding as to any other member state upon enactment by that state.

The Interstate Commission may propose amendments to the Compact for enactment by member states. No amendment may become effective and binding upon the Commission and the member states unless and until it is enacted by unanimous consent of the member states.

Withdrawal & Dissolution

A member state may withdraw from the Compact by repealing the statute that enacted it. Withdrawal will not take effect until one year after the effective date of the statute that repeals the Compact's enactment and until the withdrawing state gives written notice of the withdrawal to the governor of each other member jurisdiction.

A withdrawing state immediately must notify the chairperson of the Interstate Commission upon the introduction of legislation repealing the Compact. The Commission must notify the other member states within 60 days.

A withdrawing state will be responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

Dissolution of the Compact will be effective upon the date of the withdrawal or default of the member state that reduces the membership to one state. Upon dissolution, the Compact will become null and void and be of no further force or effect. The business and affairs of the Interstate Commission will be concluded and surplus funds must be distributed according to the bylaws.

Binding Effect

The Compact specifies that nothing in it prevents the enforcement of any other law of a member state that is not inconsistent with the Compact. All member states' laws conflicting with the Compact will be superseded to the extent of the conflict.

All lawful actions of the Interstate Commission will be binding on the member states. All agreements between the Commission and the member states will be binding in accordance with their terms. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, that provision will be ineffective to the extent of the conflict in that state.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The State would see increased costs related to being a member of the Interstate Commission, estimated by the Council of State Governments to be between \$1,600 and \$5,000 annually. Article XIV of the Compact provides that the Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Commission and its staff, which must be at least an amount to cover the annual budget. The assessment must be allocated based upon a formula determined by the Commission, and will be binding upon all member states.

Also, if the State were found to be in default of the Compact or rules, and legal fees related to that finding were paid, the State

would be responsible for those fees. The State could see additional costs if it created a State Council to provide for the coordination among its agencies of government, school districts, and military installations concerning the State's participation in the Compact and Interstate Commission activities.

Local units of government would not incur increased costs.

Fiscal Analyst: Kathryn Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.