



Amber Hardesty

Bill Analysis
Legislative Service Commission

S.B. 248

127th General Assembly
(As Introduced)

Sens. Austria, Boccieri, Buehrer, Carey, Cates, Coughlin, Faber, Gardner, Harris, Jacobson, Mason, Mumper, Padgett, Schaffer, Schuring, Spada, Smith

BILL SUMMARY

- Creates a public records exemption for Armed Forces discharges for a period of 75 years except for requests by an authorized party.
- Requires check-cashing businesses to meet certain conditions before lending money to a member of the Ohio National Guard or the United States Armed Forces.
- Excuses from jury service a prospective juror who is on active duty pursuant to an executive order issued by the President, an act of Congress, or an order or proclamation of the Governor.
- Establishes a criminal penalty for a person who unlawfully uses a deceased military person's persona for commercial purposes.
- Prohibits a person who knows that an unauthorized use of computer, cable, or telecommunication property has been or is being committed or that the person has received information derived from such an unauthorized use from knowingly failing to report the violation to law enforcement authorities.
- Requires state institutions of higher education to charge a resident rate to a nonresident student who is a United States Armed Forces member and who is stationed in Ohio pursuant to military orders, or who is the spouse or dependent child of such a student.
- Requires state institutions of higher education to discount the tuition rates for certain students who are Ohio National Guard members by at least 50% of the Ohio resident rates.

- Creates the Ohio Military Medal of Distinction and requires the Adjutant General to design the medal and coordinate an eligibility establishment program.
- Creates the National Guard Youth Challenge Program Study Committee to examine and make recommendations on the feasibility of establishing an Ohio National Guard Youth Challenge Program.

CONTENT AND OPERATION

Public records

General law; Armed Forces discharges exemption

(R.C. 149.43)

The Public Records Law generally requires every public office to prepare promptly all public records and make them available for inspection at all reasonable times during regular business hours. Upon request and within a reasonable period of time, a public office or person responsible for public records generally must make copies of the records available at cost.

The existing Public Records Law defines "public record" as records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by the nonprofit or for-profit entity operating the alternative school. The Public Records Law contains a list of types of records that are not included within the definition of "public records." The bill states that Armed Forces discharges recorded with a county recorder are not public records to the extent provided in the bill (see "Recording of Armed Forces discharge records," below).

Recording of Armed Forces discharge records

(R.C. 317.24 and 317.27)

Ongoing law requires the county recorder, upon request of any discharged member of the United States Armed Forces and presentation of the member's discharge, to record the discharge in a book to be furnished by the board of county commissioners for that purpose. Continuing law also requires the county recorder to record the discharge, upon request and presentation of the discharge, of any person who served during World War I or World War II as a member of any Polish or Czechoslovakian armed force while participating in armed conflict with a United States enemy and who has been a United States citizen for at least ten

years. There is no recording fee for either type of recording and the record, or a certified copy of it, must be received in evidence in all cases where the original would be received.

The bill specifies that a discharge recorded in either manner described above is not a public record for purposes of the Public Records Law for 75 years after the recording date. During that time, the county recorder's office must make the discharge record available for inspection or copying to only an authorized party. The bill defines "authorized party" to mean any of the following:

(1) The person who is the subject of the discharge record.

(2) A county veterans service officer, or an attorney-in-fact, agent, or other representative of the person who is the subject of the discharge record, if the person is authorized to inspect or copy the discharge record by the person who is the subject of the discharge record in a power of attorney or other document.

(3) A person authorized, for good cause shown, by a court of record to inspect or copy the discharge record.

(4) If the person who is the subject of the discharge record is deceased, the executor or administrator, or an heir, legatee, or devisee, of the person's estate.

During the 75-year period, the county recorder's office must make the discharge record available only for inspection to only a journalist who submits to the county recorder's office a written request to view a discharge record. The request must state the journalist's name and title, state the name and address of the journalist's employer, and state that the granting of the request would be in the best interest of the public. The county recorder's office must grant such a journalist's request. The bill prohibits the journalist from copying the records the journalist inspects.

The bill requires the authorized party to pay reasonable costs of copying the discharge record. However, current law exempts discharged members of the Armed Forces from paying copying charges for a certified copy of a discharge record. The bill extends this certified copies exemption to all authorized parties.

Check-cashing businesses loaning to military persons

(R.C. 1315.39, 1315.41, 1315.44, not in the bill, and 1315.99, not in the bill)

Current law prohibits a licensed check-cashing business from engaging certain practices and requires them to meet a number of conditions. If a borrower is a member of the Ohio National Guard or the United States Armed Forces, the bill further prohibits a check-cashing business from doing the following:

- (1) Garnishing a member's military wage or salary;
- (2) For the duration of a member's deployment to a combat or combat support zone, engaging in collection activities against the member or the member's spouse;
- (3) Knowingly contacting the member's military chain of command in an effort to collect a loan;
- (4) Violating the terms of any repayment agreement that the business reaches with military counselors or third-party credit counselors on a member's behalf;
- (5) Knowingly making a loan to a member if a military base commander prohibits a member from using the business.

The bill also requires that, if a borrower is a member of the Ohio National Guard or the United States Armed Forces, the check-cashing business must provide written notice of the requirements set forth above. A person who violates either of these provisions is guilty of a misdemeanor of the first degree. Furthermore, under ongoing law a violation of the check-cashing business prohibitions is deemed an unfair or deceptive act or practice for purposes of the Consumer Sales Practices Act.

Excuse from jury service for active duty military persons

(R.C. 2313.16)

Except for postponement of jury service by a person who has not previously requested a postponement or who faces an emergency situation, existing law allows a court of common pleas to excuse a person who is called for jury service only if the prospective juror or another person acquainted with the facts shows to the satisfaction of the judge that one or more of the following applies:

- (1) The interests of the public will be materially injured by the juror's attendance.
- (2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.
- (3) The juror is a cloistered member of a religious organization.
- (4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service.

(5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror.

(6) The juror is over 75 years of age and requests to be excused.

(7) The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial matter.

The bill adds, as a ground for excuse from jury service, that a prospective juror is on active duty pursuant to an executive order issued by the President, an act of Congress, or an order or proclamation of the Governor.

Using a deceased military person's persona

(R.C. 2741.02, not in the bill, 2741.06, not in the bill, and 2741.99)

Generally under current law, a person may not, without permission, use any aspect of another individual's persona¹ for a commercial purpose during the individual's lifetime or for a period of 60 years after the date of the individual's death. A person can use an individual's persona for a commercial purpose during the individual's lifetime if the person first obtains the written consent to use the individual's persona from certain specified persons. A person is also permitted to use an individual's persona for a commercial purpose after the individual's death if: (1) the person first obtains the written consent to use the individual's persona from a specified person who owns the individual's right of publicity or (2) the name of the individual was the name of a business entity or a trade name at the time of death. Current law permits certain persons to bring a civil action to enforce the rights set forth above.

The bill states that whoever violates a person's rights as set forth above by using any aspect of an individual's persona who is a deceased member of the Ohio National Guard or the United States Armed Forces is guilty of a misdemeanor of the first degree.

¹ "Persona" means an individual's name, voice, signature, photograph, image, likeness, or distinctive appearance, if any of these aspects have commercial value (R.C. 2741.01(A), not in the bill).

Report of unauthorized use of electronic property to law enforcement

(R.C. 2921.22)

Existing law generally prohibits a person who knows that a felony has been or is being committed from knowingly failing to report that information to law enforcement authorities. The bill further prohibits a person who knows that an unauthorized use of computer, cable, or telecommunication property² has been or is being committed or that the person has received information derived from such an unauthorized use from knowingly failing to report the violation to law enforcement authorities. A violation of this provision is a misdemeanor of the second degree.

A person need not disclose the information required above if the information is privileged, would incriminate a member of the person's immediate family, would amount to revealing a privileged news source, would amount to disclosure of a confidential communication to a clergy member, or would amount to revealing information acquired in the course of the person's duties in connection with a drug treatment or crime victim program.

Military persons tuition rates and discounts

(R.C. 3333.42, 3345.01, and 3345.52)

The bill requires state institutions of higher education³ to charge a nonresident student who is a member of the United States Armed Forces and who is stationed in Ohio pursuant to military orders, or who is the spouse or dependent

² An unauthorized use of computer, cable, or telecommunication property means use in any manner and by any means, including, but not limited to, computer hacking, knowingly gaining access to, attempting to gain access to, or causing access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, system, network, service, or device, or other person authorized to give consent (R.C. 2913.04(B), not in the bill).

³ "State institution of higher education" means the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, Youngstown State University, and Northeastern Ohio Universities College of Medicine, and any community college, state community college, university branch, or technical college (R.C. 3345.011, not in the bill).

child of such a student, the same rates for tuition and fees as are charged to an Ohio resident.

Additionally, the bill requires state institutions of higher education to discount the rates for tuition and fees charged to a student who is an Ohio National Guard member and who is not a scholarship recipient under the Ohio National Guard Scholarship Program,⁴ by at least 50% of the Ohio resident rates.

The bill specifies that the Chancellor of the Board of Regents is not to pay a state institution of higher education state subsidies for students charged either the Ohio resident rates for nonresidents or for the discounted rates for the Ohio National Guard described above.

Ohio Military Medal of Distinction

(R.C. 5913.11)

The bill creates the Ohio Military Medal of Distinction and requires the Adjutant General to design the medal and coordinate an eligibility establishment program. To be eligible for the medal, an individual must be killed in the line of duty while doing one of the following:

- (1) Engaging in an action against an enemy of the United States;
- (2) Engaging in military operations involving conflict with an opposing foreign force;
- (3) Serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; or
- (4) Serving in a combat zone designated by Presidential order.

Furthermore, to be eligible for the medal, an individual must be at least one of the following:

- (1) At the time the member was killed in the line of duty, an Ohio National Guard member who is an Ohio resident, a United States Military Reserves member who is an Ohio resident, or a United States Armed Forces member who is

⁴ The Ohio National Guard Scholarship Program provides financial assistance to eligible Ohio National Guard members to attend institutions of higher education and generally limits the number of participants in the Program.

either an Ohio resident or stationed in Ohio by a United States Department of Defense order.

(2) An Ohio National Guard, United States Military Reserves, or United States Armed Forces member who attended a public or private educational institution in Ohio at any time and was killed in the line of duty.

The bill requires, at least once per year, that both houses of the General Assembly obtain a list of eligible medal recipients from the Adjutant General and meet in joint convention to recognize the recipients for the prior year.

National Guard Youth Challenge Study Committee

(Section 3)

The bill creates the National Guard Youth Challenge Program Study Committee to examine and make recommendations on the feasibility of establishing an Ohio National Guard Youth Challenge Program, which is under the United States Secretary of Defense and seeks to improve life skills and employment potential of participants by providing military-based training and supervised work experience, and assists participants in receiving a high school diploma or its equivalent.

The Committee must issue a report of its findings and recommendations to the President of the Senate, the Speaker of the House, and the Governor not later than 60 days after all appointments are made. The Committee ceases to exist upon submitting its report.

The Committee consists of the following members, to be appointed not later than 60 days after the bill's effective date:

(1) Two members of the Senate appointed by the Senate President, each from a different political party;

(2) Two members of the House of Representatives appointed by the Speaker of the House, each from a different political party;

(3) The Director of the Governor's Office of Veterans' Affairs or the Director's designee;

(4) The Adjutant General or the Adjutant General's designee;

(5) One representative from Ohio State Association of Veterans Service Commissioners;

- (6) One representative from an Ohio Chapter of the Air Force Association;
- (7) One representative from the Air Force program for Battelle.

Any vacancies on the Committee are to be filled in the manner of the initial appointments. The majority party members from the Senate and the House are the Committee's co-chairs. Members receive no compensation for their services.

HISTORY

ACTION	DATE
Introduced	11-08-07

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