

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. S.B. 248** **DATE:** **May 29, 2008**

STATUS: **As Reported by Senate State & Local Govt. & Veterans Affairs** **SPONSOR:** **Sen. Austria**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Creates a public records exemption for Armed Forces discharges and alters other laws and benefits affecting specified Armed Forces personnel**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
Attorney General – Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential gain in fine revenue from newly created offenses	Potential gain in fine revenue from newly created offenses	Potential gain in fine revenue from newly created offenses
Expenditures	- 0 -	- 0 -	- 0 -
General Revenue Fund – Adjutant General, Governor's office			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase in costs to administer the Ohio Military Medal of Distinction program	Increase in costs to administer the Ohio Military Medal of Distinction program	Increase in costs to administer the Ohio Military Medal of Distinction program
Department of Development – Housing Trust Fund			
Revenues	Potential minimal loss in copy fee revenue	Potential minimal loss in copy fee revenue	Potential minimal loss in copy fee revenue
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- The bill makes certain military records available for limited public inspection for 75 years after they are filed. It also requires county recorders to provide one free copy of discharge records upon request. Currently, the Housing Trust Fund receives 50 cents for every such copy made.
- The Adjutant General's Department (ADJ) would incur costs for administering the Ohio Military Medal of Distinction program for Ohioans killed in the line of military duty. ADJ would also likely be responsible for the cost of the medals awarded, at approximately \$25 apiece. The total medal cost could range from a few thousand dollars to several hundred thousand dollars depending on the number of medals awarded. Approximately 184 Ohioans have been killed in the line of duty since the onset of the conflict in Iraq in 2003 and approximately 300,000 Ohioans have been killed in the line of duty since World War II.
- The bill creates two new criminal penalties: one first-degree misdemeanor and one second-degree misdemeanor. If there are new prosecutions because of this, it may lead to some amount of new revenue in the state's Victims of Crime/Reparations Fund (Fund 402).



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
County Recorders			
Revenues	Potential minimal loss in public record copying revenue	Potential minimal loss in public record copying revenue	Potential minimal loss in public record copying revenue
Expenditures	Potential minimal decrease in copying costs for county recorders; potential one-time \$150-\$500 increase for redaction software	Potential minimal decrease in copying costs for county recorders	Potential minimal decrease in copying costs for county recorders
County Courts			
Revenues	Potential gain in fine and court cost revenue resulting from newly created offenses in the bill	Potential gain in fine and court cost revenue resulting from newly created offenses in the bill	Potential gain in fine and court cost revenue resulting from newly created offenses in the bill
Expenditures	Potential increase in prosecution costs for new misdemeanor offenses	Potential increase in prosecution costs for new misdemeanor offenses	Potential increase in prosecution costs for new misdemeanor offenses

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill makes certain military records available for limited public inspection for 75 years after they are filed. It also requires county recorders to provide one free copy of discharge records upon request. Currently, the Housing Trust Fund receives 50 cents for every such copy made. The county recorder receives 50 cents for each page of every such copy made.
- Certain county recorders may be required to purchase editing software to remove private information from discharge records. The cost of purchasing this software is expected to be between \$150-\$500.
- The bill creates two new forms of criminal offenses that might lead to increased costs for prosecuting these offenses, with the potential for some offsetting court cost and fine revenue.

Detailed Fiscal Analysis

Public records

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 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—known as DD-214s—recorded with a county recorder are not, to a certain extent, public records. Current 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 only to authorized parties. Nonauthorized parties may request and receive an edited version of the document. This document will contain only the subject's name, rank, date of birth, date of discharge, and type of discharge. This could generate some cost for county recorders that do not possess the tools needed to redact private information from documents. A representative of the County Recorders Association indicated that the majority of county recorders already possess such editing software, and so the number of affected counties should be small. The cost for these counties is expected to be somewhere between \$150-\$500, depending upon the type of software and the number of licenses purchased.

Under the bill, both authorized and nonauthorized parties are allowed one free copy of a requested document; the requestor will be charged for any additional copies. Currently, county recorders only provide one free copy to the veteran when he or she files a DD-214 with the county recorder. For other parties, the fee for copying Armed Forces instruments is \$1, half of which is deposited in the state's Housing Trust Fund and half of which is retained by the county recorder, plus 50 cents per page. Therefore, the bill could result in a minimal loss of revenue for the Housing Trust Fund and an increase in copying costs for county recorders. The number of DD-214 copies made each year is unknown, but the effect of these provisions is expected to be minimal.

Illegal use of dead military person's persona

Under current law, a person may not, without permission, use any aspect of another individual's persona 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 persons to bring a civil action to enforce the rights set forth above. The bill adds to this by specifying that anyone who unlawfully uses the persona of a deceased member of the Ohio National Guard or the United States Armed Forces is guilty of a misdemeanor of the first degree (M1).

Current 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. Under the bill, a person who knows, and does not report, that a military person's persona has been illegally used is guilty of a misdemeanor of the second degree (M2), which carries a penalty of not more than 90 days in prison and a fine of up to \$750. It is unknown as to how many additional cases could result from this provision of the bill.

For both of these new criminal penalties, county courts could incur new costs for prosecuting new cases. County courts might also gain court cost and fine revenue, some of which is also transmitted to the state and deposited in the Victims of Crime/Reparations Fund (Fund 402).

Tuition rates and discounts

The bill requires state institutions of higher education to charge in-state tuition rates to nonresident members of the United States Armed Forces and their dependents stationed in Ohio. This requirement would have no new fiscal impact on state institutions, as existing Board of Regents (BOR) residency rules in O.A.C. 3333-1-10 include a similar provision.

Jury duty exemption

The bill excuses any member, or the spouse of a member, of a military organization from jury duty if that member is on active duty. As more people could potentially be excused from duty, the pool of potential jurors would have to be expanded in order to fill a jury. This provision, however, would appear to have little, if any, fiscal effect on the court system.

Ohio Military Medal of Distinction

The bill creates the Ohio Military Medal of Distinction for members of the Ohio National Guard, United States military reserve, and United States Armed Forces killed in the line of duty. To receive a medal, members must have Ohio residency or certain other connections to Ohio. The Adjutant General's department (ADJ) estimates that the Ohio Military Medals of Distinction could cost approximately \$25 apiece. Because the medals would be awarded to deceased individuals, ADJ would likely cover the medal cost. Since the onset of the conflict in Iraq in 2003, 11 Ohio National Guard members and 173 Ohioans who were members of the United States Armed Forces have been killed in the line of duty. These 184 individuals would be eligible for the medal. It would cost approximately \$4,600 (\$25 x 184) to award the medals to these individuals.

The bill, however, does not include a timeframe for eligibility, so medals could potentially be requested on behalf of individuals killed in any American conflict. The Governor's Office of Veterans ' Affairs (GOVA) indicates that about 30,000 Ohioans have been killed in the line of duty since World War II. It is unclear how many medals might be requested for Ohioans killed in previous conflicts. The table below provides examples of cost estimates of various numbers of medal awards for those eligible individuals. In addition to the medal cost, ADJ would also incur administrative costs for implementing the medal program.

Cost Estimates of Medal of Distinction Awards for Eligible Individuals since World War II			
# of Eligible Individuals	Medal Award Application Level	# of Medals Awarded	Medal Cost
30,000	20%	6,000	\$150,000
30,000	40%	12,000	\$300,000
30,000	60%	18,000	\$450,000
30,000	80%	24,000	\$600,000

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