

SUBJECT: Maintaining confidentiality of military discharge records

COMMITTEE: Defense Affairs and State-Federal Relations — committee substitute recommended

VOTE: 7 ayes — Corte, Campbell, Delisi, Mabry, Merritt, Noriega, Seaman
0 nays
2 absent — Berman, P. Moreno

WITNESSES: For — None
Against — George Cervantes, Texas Association of Licensed Investigators; John R. Cook, Landata Technologies
On — Chris LaPlante, Texas State Library and Archives Commission; Allen Place, Texas Land Title Association; Nancy E. Rister and Gail M. Turley, County and District Clerks Association

BACKGROUND: Beginning in the 1950s, the federal government issued a DD-214 form to each member of the military upon separation from active service. The term DD-214 often is used generically to mean “separation papers” or “discharge papers,” regardless of the actual form number used to document active duty military service.

Honorably discharged veterans must file copies of their DD-214s to qualify for various government benefits such as home loans, hiring preferences for government positions, higher education assistance, and other veterans’ programs.

The National Personnel Records Center, Military Personnel Records in St. Louis is the repository for millions of military personnel, health, and medical records of discharged and deceased veterans of all services during the 20th century.

Veterans throughout the country, including Texas, routinely have filed their

DD-214 forms at county courthouses with deed records for safekeeping and easy retrieval. Local Government Code, sec. 192.002 requires that the county clerk record the official discharge papers of anyone who served in the U.S. military after 1915 and not charge a fee for recording or keeping the record.

Government Code, chapter 552, provides for public access to records maintained by state and local government.

DIGEST:

CSHB 545 would add sec. 552.140 to the Government Code to require that any DD-214 or other discharge record filed after September 1, 2003, would remain confidential for 75 years from the date it was first recorded with the governmental body. Veterans who filed the discharge records, or their legal guardians, spouses, parents, or nearest living relative, could inspect the document or receive a free copy of it. The record also would be available to a representative of the veteran's estate, a person granted power of attorney by the veteran, or another governmental agency. A court ordering release of the information or governmental agency obtaining the information would be required to limit further disclosure of the information in the discharge record.

The bill also would add a provision to Local Government Code, sec. 192.002 allowing a veteran or the veteran's legal guardian to request that the county clerk destroy all public copies of discharge papers recorded before September 1, 2003. The county clerk would be required to remove these records from paper, microfilm, microfiche, or electronic media within 15 business days of receiving the request.

Other provisions would allow for the destruction of these records without violating state open records law governing the preservation, destruction, or alienation of public records. The county clerk also would be required only to search readily available public records to meet an open records request from anyone besides the veteran or legal guardian for discharge papers filed before September 1, 2003.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 545 would help protect the privacy of veterans by preventing disclosure of personal information that could lead to identity theft, the fastest growing crime in the nation. Older DD-214 forms contain social security numbers and

other information that make it easy for a thief to assume the veteran's identity. These forms also may include Separation Program Numbers (SPN or "spin codes") that can provide derogatory information about even an honorably discharged veteran.

CSHB 545 still would provide a convenient way for veterans to keep their discharge papers both safe and readily accessible. Filing these documents always has been voluntary, and veterans could still choose to keep their records on file at the courthouse. The bill also would grant veterans the option to request that all their records filed before September 1, 2003, be destroyed, or just to remove those records that are readily accessible to the public.

The bill would not impose additional costs on counties or cause administrative burdens for county clerks. Counties already have the obligation to record and keep DD-214 forms at no charge to veterans, and this policy would not change for those filing after September 1, 2003. Existing records would not have to be removed except as requested by veterans or their representatives.

Historians and researchers still would have access to a more complete veterans' records through the National Personnel Records Center, Military Personnel Records in St. Louis. CSHB 545 would affect only records kept in Texas courthouses. Journalists and historians who want to debunk imposter's claims about their wartime exploits or military service frequently receive permission from the claimant to search their records. Otherwise, researcher cans file Freedom of Information Act requests. In either case, the federal government releases only information about branch and dates of service and withholds sensitive personal information.

**OPPONENTS
SAY:**

Records maintained at public expense should be open to all citizens. Sensitive information about individuals can be redacted from the record, keeping the rest of the information available to the public.

It seems unlikely that sophisticated criminals would spend much time looking up personal information contained in discharge papers held in dusty courthouses. A few keystrokes for an Internet search quickly would yield more personal data than reviewing paper or microfilm records in a county clerk's office.

Closing veterans' records, even on the local level, could create gaps in the historical record and preclude innovative research in the future. For his book *Stolen Valor*, author and veteran B.G. Burkett has used Freedom of Information Act requests to obtain more than 1,500 individual military records identifying imposters who falsified their Vietnam-era military service. No one will be able to set the record straight if individual documents are kept secret.

NOTES:

The committee substitute differs from the bill as introduced by increasing the amount of time that discharge records would be held confidential from 50 years to 75 years. In addition, the substitute would establish September 1, 2003, as the effective date for the new policy, would allow veterans to request that records held before that date be removed from public view, and would allow for the destruction of such records without violating state public information law.

Two similar bills, SB 81 by Zaffirini and SB 85 by Wentworth, were scheduled for a public hearing on April 2 by the Senate Veterans Affairs and Military Installations Committee.