

# Legislative Analysis



## INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

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**House Bill 5963 (Substitute H-1)**

**Sponsor: Rep. Gino Polidori**

**Committee: Military and Veterans Affairs and Homeland Security**

**Complete to 4-21-08**

### A SUMMARY OF HOUSE BILL 5963 AS REPORTED FROM HOUSE COMMITTEE

The Council of State Governments and the U.S. Department of Defense Office of Personnel and Readiness have drafted a new interstate compact to address the educational transition issues of children of military families. With the enactment of House Bill 5963 Michigan would be entering into the compact. The bill would require the governor appoint the state's representative to the interstate commission on educational opportunity or military children. The compact would be effective and binding upon legislative enactment into law by no less than 10 states.

Some key issues encountered by these families, among other things, are eligibility, enrollment, placement, and graduation. The compact would also provide for a detailed governance structure at both the state and national levels with enforcement and compliance mechanisms. Updated information concerning the interstate compact is available at:

<http://www.csg.org/programs/ncic/EducatingMilitaryChildrenCompact.aspx>.

Information in this summary is derived from a summary provided by the Council of State Governments. Articles I and II define the purpose of the compact and provide definitions, respectively. A description of the other articles follows.

#### Article III; Applicability

The compact would apply to the children of 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 a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

The new compact would not apply to children of inactive members of the National Guard and military reserves; members of the uniformed services now retired not covered above; veterans of the uniformed services not covered above; and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### Article IV; Educational Records & Enrollment

*Educational records.* The compact would direct schools to share records in a timely manner in order to expedite the proper enrollment and placement of students. If the sending school cannot provide the parent a copy of the official record, an unofficial copy will be provided that could be hand carried to the school in lieu of the official record. This unofficial record could then be used for preliminary placement while the school sends for the official record. Once requested, the sending school would have 10 days to provide the official record to the receiving school. The bill provides for specific timelines (in this case 30 days from the date of enrollment) for students to obtain required immunizations in the receiving state.

*Age of enrollment/Course continuation.* Absent a new enrollment in kindergarten, a student would be allowed to continue enrollment at grade level in the receiving state commensurate with their grade level from the sending state. For example, if a student is enrolled and attends kindergarten at age 5 in state "A" and transfers to state "B", the student would be allowed to continue in kindergarten despite state "B's" "entrance age" of 6 years. Further, the bill would allow for such continuity of enrollment when a student has completed kindergarten and is ready for enrollment in first grade. For example, if a student completed kindergarten in state "A" and transfers to state "B", the student would be allowed to enter first grade in spite of state "B's" "entrance age" of 6 or 7 years.

#### Article V, Placement and Attendance

*Course placement /Educational program placement.* When the student transfers before or during the school year, the receiving state school would initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

*Special education services.* 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state would be required to initially provide comparable services to a student with disabilities based on the current Individualized Education Program (IEP); and 2) in compliance with the requirements of Section 504 of the Rehabilitation Act 29 U.S.C.A. section 794, with Title II of the Americans with Disabilities Act 42 U.S.C.A. Section 12131-12165, the receiving state would be required to make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education.

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

*Placement flexibility.* Local education agency administrative officials would have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

*Absence as related to deployment activities.* A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by in the bill, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, would be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian prior to leave or deployment of the parent or guardian.

#### Article VI, Eligibility

*Power of attorney.* Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law would be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

*Tuition.* A local education agency would be prohibited from charging local tuition to a military child placed in the care of a non-custodial parent or other person standing in loco parentis (i.e., in the place of a parent) who lives in a jurisdiction other than that of the custodial parent.

*Non-custodial parents.* A military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, could continue to attend the school in which the child was enrolled while residing with the custodial parent.

*Extracurricular activities.* State and local education agencies would be required to facilitate the opportunity for military children's inclusion in extracurricular activities to the extent they are otherwise qualified.

#### Article VII, Graduation

*Waiver requirements.* Local education agency administrative officials would waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency would be required to provide an alternative means of acquiring required coursework so that graduation may occur on-time.

*Exit exams.* States could accept: 1) exit or end-of-course exams required for graduation from the sending state; 2) national norm-referenced achievement tests or 3) alternative

testing, in lieu of testing requirements for graduation in the receiving state. Within 12 months of the effective date of this compact, the interstate commission would adopt a rule addressing the acceptance of exit exams.

*Transfers during senior year.* Should a military student transferring in his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies would ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state would use best efforts to facilitate the on-time graduation of the student.

#### Article VIII, State Coordination

*State Council.* Each state would be required to develop a state council to provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, the compact. While each member state could determine the membership of its own state council, its membership would be required to include at least: the state superintendent of education, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative from the legislative and executive branches of government, and other offices and "stakeholder groups" the state council deems appropriate.

*Military Family Education Liaison.* The state council of each member state would appoint or designate a military family education liaison to assist military families and the state in implementing the compact.

#### Article IX, Interstate Commission

*Interstate Commission.* This commission is the governing body of the interstate compact—composed of representatives from each member state as well as various ex-officio members representing affected stakeholder groups. The commission provides general oversight of the agreement, creates and enforces rules governing the compact's operation and promotes training and compliance with the compact's requirements. Each state would be allowed one vote on compact matters and the commission would maintain a variety of policy and operations committees. Rather than states operating under an interstate agreement without any national coordination, the interstate commission would provide the venue for solving interstate issues and disputes.

#### Article X, Powers and Duties of Interstate Commission

*Powers and duties.* The bill lists the numerous powers and duties of the interstate commission, which include: providing for dispute resolution among member states; promulgating rules to effect the goals, purposes, and obligations enumerated in the compact (with the rules to have the force and effect of statutory law); issuing advisory

opinions; enforcing compliance; and to coordinate education, training, and public awareness regarding the compact.

#### Article XI, Organization and Operation of Commission

*Bylaws, Chairperson, Executive Committee.* The interstate commission would, by majority of the members present and voting, within 12 months after the first meeting, adopt bylaws to govern its conduct as necessary to carry out the purpose of the compact. The interstate commission would also elect annually, from among its members a chairperson and other executive committee members as specified in the bylaws. Executive committee members would have such authority as set forth in the bylaws.

#### Article XII, Rulemaking Function of Commission

*Rulemaking authority.* The interstate Commission would promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact.

#### Article XIII, Oversight, Enforcement, and Dispute Resolution

*Oversight.* The executive, legislative and judicial branches of state government would enforce the compact and take all actions necessary to effectuate its purposes and intent. The provisions of the compact and the rules promulgated would have standing as statutory law.

*Default, technical assistance, suspension, and termination.* If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, bylaws, or promulgated rules, it would specify the conditions by which the defaulting state would be required to cure its default, and provide remedial training and specific technical assistance. If the defaulting state fails to cure the default, the defaulting state would be terminated from the compact, upon an affirmative vote of the majority of the member states. Additional suspension and termination provisions are outlined in the bill.

*Dispute resolution.* The interstate commission would attempt, upon request of a member state, to resolve disputes which are subject to the compact and could arise among member states between member and non-member states. The commission would promulgate rules providing for both mediation and binding dispute resolution for disputes as appropriate.

*Enforcement.* The interstate commission will have the ability to enforce the provision of the compact and its rules on states and school districts. The remedies would not be the exclusive remedies of the interstate commission. The commission could avail itself of any other remedies available under state law or the regulation of a profession.

#### Article XIV, Financing

*Expenses.* The interstate commission could levy on and collect an annual assessment and from each member state to cover the cost of the operations and activities of the interstate commission. The interstate commission could not pledge the credit of any of the member states, except by and with the authority of the member state.

#### Article XV, Member States, Effective Date, and Amendment

*Member states.* Any state is eligible to become a member state. The compact would be effective and binding upon legislative enactment into law by no less than 10 states. The effective date would be no earlier than December 1, 2007. The interstate commission could propose amendments to the compact for enactment by member states. No amendment would become effective and binding on the commission and member states until it is enacted into law by unanimous consent of member states.

#### Article XVI, Withdrawal and Dissolution

*Withdrawal.* A member state could withdraw from the compact by specifically repealing the statute which enacted the compact into law. Withdrawal would not take effect until one year after the effective date of such statutes and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction. The specific provisions of this article are outlined in the bill.

#### Article XVII, Severability and Construction

The provisions of this compact would be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact would be enforceable. Nothing in the compact is to be construed to prohibit the applicability of other interstate compacts to which the states are members.

#### Article XVIII, Binding Effect of Compact and Other Laws

*Other laws.* Nothing in the compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

*Binding effect.* All lawful actions of the interstate commission, including rules and bylaws promulgated by the interstate commission, are binding on member states. All agreements between the commission and member states are binding in accordance with their terms. If any provision exceeds the constitutional limits imposed on the legislature of any member state, such provision would be ineffective to the extent of the conflict with the constitutional provision in a question in that state.

**FISCAL IMPACT:**

The bill may create minimal travel and administrative costs related to the State Council and its membership. The bill would not have any fiscal impact on the State or local units of government over and above the usual costs of educating each student.

**POSITIONS:**

A representative of the U.S. Secretary of Defense (and the Office of the Under Secretary of Defense, Military Community and Family Policy) testified in support of the bill. (4-16-08)

A representative of the American Legion, the Marine Corps, and the Commanders Group testified in support of the bill. (4-16-08)

A representative of the Council of State Governments testified in support of the bill. (4-16-08)

Fraternal Order of the Purple Heart supports the bill. (4-16-08)

Michigan Department of Military and Veterans Affairs support the bill. (4-16-08)

VFW Department of Michigan supports the bill. (4-16-08)

The Department of Education testified in support of the concept of the bill but raised concerns about implementation. (4-16-08)

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■ 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.