

112TH CONGRESS
1ST SESSION

H. R. 637

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2011

Mr. HUNTER (for himself, Mr. GINGREY of Georgia, Mr. WESTMORELAND, Mr. CHAFFETZ, Mr. LAMBORN, Mrs. SCHMIDT, Mrs. BACHMANN, Mrs. MYRICK, Mr. CALVERT, Mr. BILBRAY, and Mr. FRANKS of Arizona) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Military
5 Recruiters Act”.

1 **SEC. 2. ACCESS TO STUDENT RECRUITING INFORMATION.**

2 (a) CHANGES TO THE ELEMENTARY AND SEC-
3 ONDARY EDUCATION ACT OF 1965.—Section 9528(a) of
4 the Elementary and Secondary Education Act of 1965 (20
5 U.S.C. 7908(a)) is amended—

6 (1) by striking paragraphs (1) and (2) and in-
7 serting the following:

8 “(1) ACCESS TO STUDENT RECRUITING INFOR-
9 MATION.—Notwithstanding section 444(a)(5)(B) of
10 the General Education Provisions Act, each local
11 educational agency receiving assistance under this
12 Act shall provide, upon a request made by a military
13 recruiter or an institution of higher education, ac-
14 cess to the name, address, and telephone listing of
15 each secondary school student served by the local
16 educational agency, unless the parent of such stu-
17 dent has submitted the prior consent request under
18 paragraph (2).

19 “(2) CONSENT.—

20 “(A) OPT-OUT PROCESS.—A parent of a
21 secondary school student may submit a written
22 request, to the local educational agency, that
23 the student’s name, address, and telephone list-
24 ing not be released for purposes of paragraph
25 (1) without prior written consent of the parent.

26 Upon receiving such request, the local edu-

1 cational agency may not release the student’s
2 name, address, and telephone listing for such
3 purposes without the prior written consent of
4 the parent.

5 “(B) NOTIFICATION OF OPT-OUT PROC-
6 ESS.—Each local educational agency shall no-
7 tify the parents of the students served by the
8 agency of the option to make a request de-
9 scribed in subparagraph (A).”; and
10 (2) by adding at the end the following:

11 “(4) RULE OF CONSTRUCTION PROHIBITING
12 OPT-IN PROCESSES.—Nothing in this subsection
13 shall be construed to allow a local educational agen-
14 cy to withhold access to a student’s name, address,
15 and telephone listing from a military recruiter or in-
16 stitution of higher education by implementing an
17 opt-in process or any other process other than the
18 written consent request process under paragraph
19 (2)(A).

20 “(5) PARENTAL CONSENT.—For purposes of
21 this subsection, whenever a student has attained
22 eighteen years of age, the permission or consent re-
23 quired of and the rights accorded to the parents of
24 the student shall only be required of and accorded
25 to the student.”.

1 (b) CHANGES TO TITLE 10 OF THE UNITED STATES
2 CODE.—Subsection (c) of section 503 of title 10, United
3 States Code, is amended to read as follows:

4 “(c) ACCESS TO SECONDARY SCHOOLS.—(1)(A)
5 Each local educational agency receiving assistance under
6 the Elementary and Secondary Education Act of 1965—

7 (i) shall provide to military recruiters the
8 same access to secondary school students as is pro-
9 vided generally to postsecondary educational institu-
10 tions or to prospective employers of those students;
11 and

12 (ii) shall provide, upon a request made by a
13 military recruiter for military recruiting purposes,
14 access to the name, address, and telephone listing of
15 each secondary school student served by the local
16 educational agency, notwithstanding section
17 444(a)(5)(B) of the General Education Provisions
18 Act (20 U.S.C. 1232g(a)(5)(B)), unless the parent
19 of such student has submitted the prior consent re-
20 quest under subparagraph (B).

21 “(B)(i) The parent of a secondary school student may
22 submit a written request, to the local educational agency,
23 that the student’s name, address, and telephone listing not
24 be released for purposes of subparagraph (A) without
25 prior written parental consent. Upon receiving a request,

1 the local educational agency may not release the student's
2 name, address, and telephone listing for such purposes
3 without the prior written consent of the parent.

4 “(ii) Each local educational agency shall notify par-
5 ents of the option to make a request described in clause
6 (i).

7 “(C) Nothing in this paragraph shall be construed to
8 allow a local educational agency to withhold access to a
9 student's name, address, and telephone listing from a mili-
10 tary recruiter or institution of higher education by imple-
11 menting an opt-in process or any other process other than
12 the written consent request process under subparagraph
13 (B)(i).

14 “(D) For purposes of this paragraph, whenever a stu-
15 dent has attained eighteen years of age, the permission
16 or consent required of and the rights accorded to the par-
17 ents of the student shall only be required of and accorded
18 to the student.

19 “(2)(A) If a local educational agency denies recruit-
20 ing access to a military recruiter under this section, the
21 Secretary shall notify—

22 “(i) the Governor of the State in which the
23 local educational agency is located; and

24 “(ii) the Secretary of Education.

1 “(B) Upon receiving a notification under subpara-
2 graph (A), the Secretary of Education—

3 “(i) shall, consistent with the provisions of part
4 D of title IV of the General Education Provisions
5 Act (20 U.S.C. 1234 et seq.), determine whether the
6 local educational agency is failing to comply substan-
7 tially with the requirements of this subsection; and

8 “(ii) upon determining that the local edu-
9 cational agency has failed to comply substantially
10 with such requirements, may impose a penalty, or
11 enforce a remedy, available for a violation of section
12 9528(a) of the Elementary and Secondary Edu-
13 cation Act of 1965 (20 U.S.C. 7908(a)) in the same
14 manner as such penalty or remedy would apply to a
15 local educational agency that violated such section.

16 “(3) The requirements of this subsection do not apply
17 to a private secondary school that maintains a religious
18 objection to service in the armed forces and which objec-
19 tion is verifiable through the corporate or other organiza-
20 tional documents or materials of that school.

21 “(4) In this subsection:

22 “(A) The term ‘local educational agency’
23 means—

24 “(i) a local educational agency, within the
25 meaning of that term in section 9101 of the El-

1 elementary and Secondary Education Act of 1965
2 (20 U.S.C. 7801); and

3 “(ii) a private secondary school.

4 “(B) The term ‘recruiting access’ means access
5 requested as described in paragraph (1).

6 “(C) The term ‘State’ includes the District of
7 Columbia, the Commonwealth of Puerto Rico, the
8 Commonwealth of the Northern Mariana Islands,
9 Guam, the Virgin Islands, American Samoa, the
10 Federated States of Micronesia, the Republic of the
11 Marshall Islands, and the Republic of Palau.”.

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