

111TH CONGRESS  
1ST SESSION

# S. 87

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

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IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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. ACCESS TO STUDENT RECRUITING INFORMA-**  
4 **TION.**

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

9 (1) by striking paragraphs (1) and (2) and in-  
10 serting the following:

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

12           “(2) CONSENT.—

13           “(A) OPT-OUT PROCESS.—A parent of a  
14           secondary school student may submit a written  
15           request, to the local educational agency, that  
16           the student’s name, address, and telephone list-  
17           ing not be released for purposes of paragraph  
18           (1) without prior written consent of the parent.  
19           Upon receiving such request, the local edu-  
20           cational agency may not release the student’s  
21           name, address, and telephone listing for such  
22           purposes without the prior written consent of  
23           the parent.

24           “(B) NOTIFICATION OF OPT-OUT PROC-  
25           ESS.—Each local educational agency shall no-

1           tify the parents of the students served by the  
2           agency of the option to make a request de-  
3           scribed in subparagraph (A).”; and

4           (2) by adding at the end the following:

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

14          “(5) PARENTAL CONSENT.—For purposes of  
15          this subsection, whenever a student has attained  
16          eighteen years of age, the permission or consent re-  
17          quired of and the rights accorded to the parents of  
18          the student shall only be required of and accorded  
19          to the student.”.

20          (b) CHANGES TO TITLE 10 OF THE UNITED STATES  
21          CODE.—Section 503(c) of title 10, United States Code,  
22          is amended—

23                 (1) by striking paragraph (1) and inserting the  
24                 following: “(1)(A) Each local educational agency re-

1 ceiving assistance under the Elementary and Sec-  
2 ondary Education Act of 1965—

3 “(i) shall provide to military recruiters the  
4 same access to secondary school students as is pro-  
5 vided generally to postsecondary educational institu-  
6 tions or to prospective employers of those students;  
7 and

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

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

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

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

11       “(D) PARENTAL CONSENT.—For purposes of this  
12 paragraph, whenever a student has attained eighteen  
13 years of age, the permission or consent required of and  
14 the rights accorded to the parents of the student shall only  
15 be required of and accorded to the student.”;

16               (2) by striking paragraphs (2), (3), and (4) and  
17 inserting the following:

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

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

23               “(ii) the Secretary of Education.

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

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

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

14           (3) by redesignating paragraphs (5) and (6) as  
 15          paragraphs (3) and (4), respectively; and

16           (4) in paragraph (4) (as redesignated by para-  
 17          graph (3) of this section)—

18                   (A) by striking subparagraphs (C), (E),  
 19                   and (F); and

20                   (B) by redesignating subparagraph (D) as  
 21                   subparagraph (C).

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