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VETERANS: Discharge, Report of Separation, and Service Record.

COUNTY CLERKS: County Record Book for Soldiers' Discharges.

Recording of veterans' military discharges, by county clerks, includes the recording of Report of Separation and Service Record, DD Form 214.

Opinion No. 4829

May 2, 1975.

Mr. Frank A. Schmidt, Jr.
Executive Secretary
Board of Trustees
Michigan Veterans Trust Fund
122 South Grand Avenue
Lansing, Michigan 48933

You have requested an opinion as to whether the recording of military records under the provisions of 1867 PA 83, as amended, MCLA 35.31, 35.32 and 35.35; MSA 4.1201, 4.1202 and 4.1203, includes the recording of the military service record and report of separation (Form DD 214) as well as the military discharge.

Section 2 of the statute reads in part:

"It shall be the duty of each county clerk, to enter at large, upon such record book, all soldiers', sailors', marines', nurses' and members of women's auxiliaries' discharges that may be presented to him for record. . . ."

Thus, the statute calls specifically for the recording of the discharge but not for the recording of the military service record and report of separation. At the time the statute was written, and until 1948, it was the practice of the armed forces to place the military service record and report of separation on the back of the discharge certificate. When the discharge was subsequently recorded, the military service record of the individual became permanently available. This is no longer the case. In 1948 the procedure was changed, and the report of separation and military service record became a separate document from the discharge.

In the past, the certified copies of the discharge as recorded have been used as supporting documentation for all VA rights and claims, including compensation, pension, death benefits, burial, education benefits for surviving dependents, insurance, loans, service connected disabilities and bonus claims. The DD-214 report of separation is currently used for this purpose. Thus, if only the discharge certificate is recorded none of the vital information needed to secure VA claims and benefits would be available.

It is well established practice in American legal processes to consider relevant information about the historical background of the enactment of a statute in the course of making decisions about how it is to be reasonably construed and applied. *Lakehead Pipeline Co, Inc v Dehn*, 340 Mich 25, 34, 35; 64 NW2d 903 (1954); *Town & Country Motors, Inc v Local Union 328*, 355 Mich 26; 94 NW2d 442 (1959). The background of a statute is valuable in determining what object the act is supposed to achieve. Although no specific legislative history is available on 1867 PA 83,

it is known that at the time this act was written, the military record and report of separation were placed on the back of the discharge, and would have been recorded along with it. The implication is that the legislature must have intended that not only the discharge, but the report of separation and military service record be recorded, since that was the prevailing practice and would have been the result at the time.

It is an equally familiar and fundamental rule of statutory construction that as the intent of the legislature should be given effect, the statutes should be construed so as to give them validity and a "reasonable construction." *In re State Highway Commission*, 383 Mich 709, 714; 178 NW2d 923 (1970). Clearly, the "reasonable construction" in this case is to construe the act to include the recording of the report of separation and service record. Without a record of these documents the benefits they were intended to help provide for cannot be claimed. The certificate of discharge, which contains nothing but the name, serial number, rank and date cannot be used for these purposes and is essentially useless without the other documents, except to show the type of discharge received. It is therefore my opinion that the word "discharge" in MCLA 35.31, 35.32; MSA 4.1201, 4.1202 includes the report of separation and military service record.

FRANK J. KELLEY,
Attorney General.

750502.2

CONSTITUTIONAL LAW: Separation of Powers.

**DEPARTMENT OF STATE HIGHWAYS AND TRANSPORTATION:
Constitutional Powers.**

Although the State Highway Commission is a constitutional body with responsibility for operating the Department of State Highways and Transportation, its functions and powers are defined by law. It does not have plenary powers granted to it by the Constitution.

The legislature may impose funding controls through appropriation legislation but cannot assume administrative controls with respect to highway commission programs that would constitute an exercise of the executive powers of government.

Opinion No. 4873

May 2, 1975.

The Honorable Russell Hellman
Michigan State Representative
The Capitol
Lansing, Michigan

By letter dated March 19, 1975, you state that the Joint Capital Outlay Subcommittee at its meeting of March 13, 1975, discussed with Mr. John P. Woodford, Director, Department of State Highways and Transportation, possible subcommittee involvement with all construction programs under the Department of State Highways and Transportation. You ask whether