

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 126 - L.D. 173

An Act To Restore Honor to Certain Service Members

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 37-B MRSA §503, sub-§9 is enacted to read:

9. Change in treatment of certain discharges. The director, in accordance with this subsection, shall establish a process for a veteran who separated from service without an honorable discharge due solely to the veteran's sexual orientation or gender identity or to statements, consensual sexual conduct or consensual acts relating to sexual orientation or gender identity to have that discharge treated as an honorable discharge for purposes of determining the veteran's eligibility for rights, privileges and benefits granted to veterans under state law.

A. If the director determines that a veteran qualifies to have that veteran's discharge treated as an honorable discharge for purposes of state law, the director shall record this information in the records management system maintained pursuant to subsection 8 and shall provide the veteran with a written certificate verifying the upgraded discharge status for state law purposes. The director shall assist a veteran to whom a certificate is issued under this paragraph in applying for an upgrade of that veteran's discharge status under federal law, if such an upgrade would entitle the veteran to receive federal benefits.

B. All state and municipal departments and agencies shall accept a certificate issued by the director under paragraph A as evidence that the veteran who is the subject of the certificate qualifies as a veteran with an honorable discharge for purposes of determining whether the veteran qualifies for rights, privileges or benefits granted to veterans under state law. The director shall publish and distribute written materials describing the process established under this subsection and the duties of state and municipal departments and agencies under this paragraph.

C. The director shall implement an outreach program to inform veterans of the process established under this subsection and to inform veterans that, through this process, they may be able to receive privileges and benefits that were previously denied under state law.

D. For purposes of this subsection, "gender identity" has the same meaning as in Title 5, section 4553, subsection 5-C; "sexual orientation" has the same meaning as in Title 5, section 4553, subsection 9-C; and "veteran" means a person who served in the United States Armed Forces, the reserve components of the United States Armed Forces, the Maine National Guard or the Active Guard Reserve.

Sec. 2. 37-B MRSA §504, sub-§4, ¶A-1, as amended by PL 2019, c. 601, §1, is further amended by enacting a new subparagraph (3) to read:

(3) "Program of general amnesty" does not include the process for upgrading a discharge for state law purposes under section 503, subsection 9.

Sec. 3. Report. The Director of the Maine Bureau of Veterans' Services within the Department of Defense, Veterans and Emergency Management shall explore whether other states have established processes for reviewing and potentially upgrading the discharge status, for state law purposes, of veterans who have been diagnosed with post-traumatic stress disorder or traumatic brain injury or who have been diagnosed with psychological trauma resulting from sexual assault or sexual harassment during military service as described in 38 United States Code, Section 1720D and who separated from service without an honorable discharge. By January 15, 2022, the director shall report to the Joint Standing Committee on Veterans and Legal Affairs on both the potential for implementing such a process in the State and the resources that would be required to implement the process. The Joint Standing Committee on Veterans and Legal Affairs may report out legislation based upon the report to the Second Regular Session of the 130th Legislature.