

STATE OF NEW YORK

1243

2017-2018 Regular Sessions

IN ASSEMBLY

January 11, 2017

Introduced by M. of A. BUCHWALD, SEAWRIGHT, TITONE, ROSENTHAL, GOTTFRIED, MOSLEY, SOLAGES, BENEDETTO, STIRPE, GLICK, JEAN-PIERRE, MAYER, CAHILL, JAFFEE, O'DONNELL, SIMON, DINOWITZ, ARROYO, DAVILA, BLAKE, SKOUFIS, LIFTON, OTIS, STECK -- Multi-Sponsored by -- M. of A. COOK, ENGLEBRIGHT, FARRELL, HEVESI, MAGEE, McDONOUGH, ORTIZ, RAMOS, THIELE -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the executive law, in relation to enacting the "New York State Restoration of Honor Act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "New York State Restoration of Honor Act".

§ 2. The executive law is amended by adding a new article 17-C to read as follows:

ARTICLE 17-C

NEW YORK STATE RESTORATION OF HONOR ACT

Section 369-l. Definitions.

369-m. Eligibility of discharged LGBT veterans for state benefits.

369-n. Eligibility certification for discharged LGBT veterans.

369-o. Cooperation and facilities of other departments.

§ 369-l. Definitions. As used in this article:

1. "Division" means the division of veterans' affairs.

2. "State director" means the New York state director of veterans' affairs.

3. "Veteran" means a resident of this state who has served in the active military or naval service of the United States during a war in which the United States engaged and who has been released from such service.

4. "Discharged LGBT veteran" shall mean a veteran who was discharged less than honorably from military or naval service due to their sexual

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 orientation, gender identity or expression, or statements, consensual
2 sexual conduct, or consensual acts relating to sexual orientation,
3 gender identity or expression, or the disclosure of such statements,
4 conduct, or acts, that were prohibited by the armed forces at the time
5 of discharge.

6 5. "Armed forces" means the military and naval forces of the United
7 States.

8 § 369-m. Eligibility of discharged LGBT veterans for state benefits.

9 1. Notwithstanding any other provision of law, no veteran shall be
10 denied eligibility for any program, service, benefit, or activity of
11 departments, divisions, boards, bureaus, commissions or agencies of the
12 state or of any political subdivision of the state that provides
13 services or facilities to veterans for which they would otherwise be
14 eligible, solely on the basis of the veteran's status as a discharged
15 LGBT veteran.

16 2. A certificate of eligibility issued by the division to a discharged
17 LGBT veteran pursuant to section three hundred sixty-nine-n of this
18 article shall be sufficient proof of eligibility for any such program,
19 service, benefit, or activity.

20 § 369-n. Eligibility certification for discharged LGBT veterans. 1.
21 To effectuate the purposes of section three hundred sixty-nine-m of this
22 article, the division shall establish a consistent and uniform process
23 for the issuance of certificates of eligibility for discharged LGBT
24 veterans to act as proof of eligibility for any program, service, bene-
25 fit, or activity of the state or any political subdivision of the state.

26 2. A discharged LGBT veteran seeking such a certificate of eligibility
27 shall be required to provide either:

28 (a) documents consisting of: (i) a copy of the veteran's discharge
29 papers; (ii) a personal affidavit of the circumstances surrounding the
30 discharge; and (iii) any relevant records pertaining to the discharge;
31 or

32 (b) a personal affidavit: (i) of the circumstances surrounding the
33 discharge; and (ii) certifying that the veteran does not have the docu-
34 ments specified in paragraph (a) of this subdivision.

35 3. If a discharged LGBT veteran provides the division with an affida-
36 vit described in paragraph (b) of subdivision two of this section, the
37 division may attempt to retrieve the documents specified in paragraph
38 (a) of subdivision two of this section from the United States department
39 of defense. In no case, however, shall the absence of such documents be
40 considered a reason to deny a veteran a certificate pursuant to subdivi-
41 sion one of this section.

42 4. A discharged LGBT veteran shall only receive such certification
43 from the division if, with respect to their original discharge, there
44 were no aggravating circumstances that would have independently led to a
45 discharge characterization that was less than honorable.

46 5. The division shall make available information about the process for
47 obtaining certificates of eligibility for discharged LGBT veterans on
48 the division's website.

49 6. The state director shall promulgate and adopt suitable rules and
50 regulations to carry out the provisions of this article.

51 § 369-o. Cooperation and facilities of other departments. To effectu-
52 ate the purposes of this article, the governor may direct any relevant
53 department, division, board, bureau, commission or agency of the state,
54 or of any political subdivision thereof, to cooperate with and assist
55 and advise the division in the performance of its duties and functions,
56 and to provide such facilities, including personnel, materials and other

1 assistance and data as will enable the division or any of its agencies
2 to properly carry out its activities and effectuate its purposes under
3 this article.

4 § 3. Subdivision 14 of section 353 of the executive law, as added by
5 chapter 444 of the laws of 1988 and as renumbered by chapter 652 of the
6 laws of 2007, is amended to read as follows:

7 14. To establish, operate and maintain a toll-free telephone number,
8 under the supervision of the state director, for the purpose of provid-
9 ing callers thereof with information relating to services provided by
10 the division as well as services and programs provided to veterans by
11 other agencies, bureaus and organizations and by obtaining certificates
12 of eligibility for discharged LGBT veterans pursuant to section three
13 hundred sixty-nine-n of this chapter. Such services and programs shall
14 include, but not be limited to, educational and job benefits, tuition
15 assistance programs, survivor benefits, health and mental health refer-
16 rals and real property tax exemptions.

17 § 4. This act shall take effect on the ninetieth day after it shall
18 have become a law; provided that effective immediately, the division of
19 veterans' affairs is authorized to implement rules and regulations for
20 the timely implementation of this act on its effective date.