

# STATE OF NEW YORK

---

51

2017-2018 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2017

---

Introduced by Sens. HOYLMAN, ADDABBO, GIANARIS, LATIMER, MONTGOMERY, PERKINS, SERRANO, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military 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:

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

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

### ARTICLE 17-C

#### NEW YORK STATE RESTORATION OF HONOR ACT

##### Section 369-l. Definitions.

8 369-m. Eligibility of discharged LGBT veterans for state bene-  
9 fits.

10 369-n. Eligibility certification for discharged LGBT veterans.

11 369-o. Cooperation and facilities of other departments.

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

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

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

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

20 4. "Discharged LGBT veteran" shall mean a veteran who was discharged  
21 less than honorably from military or naval service due to their sexual  
22 orientation, gender identity or expression, or statements, consensual

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

LBD01577-01-7

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

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

7 § 369-m. Eligibility of discharged LGBT veterans for state benefits.

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

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

19 § 369-n. Eligibility certification for discharged LGBT veterans. 1.  
20 To effectuate the purposes of section three hundred sixty-nine-m of this  
21 article, the division shall establish a consistent and uniform process  
22 for the issuance of certificates of eligibility for discharged LGBT  
23 veterans to act as proof of eligibility for any program, service, bene-  
24 fit, or activity of the state or any political subdivision of the state.

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

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

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

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

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

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

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

50 § 369-o. Cooperation and facilities of other departments. To effectu-  
51 ate the purposes of this article, the governor may direct any relevant  
52 department, division, board, bureau, commission or agency of the state,  
53 or of any political subdivision thereof, to cooperate with and assist  
54 and advise the division in the performance of its duties and functions,  
55 and to provide such facilities, including personnel, materials and other  
56 assistance and data as will enable the division or any of its agencies

1 to properly carry out its activities and effectuate its purposes under  
2 this article.

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

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

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