

STATE OF NEW YORK

8792

IN SENATE

July 16, 2020

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, the military law and the civil rights law, in relation to certificates of honorable separation from or service in the armed forces of the United States

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

1 Section 1. Subdivisions 24 of section 353 of the executive law, as
2 added by chapters 481 and 571 of the laws of 2019, are renumbered subdivi-
3 sions 25 and 26 and a new subdivision 27 is added to read as follows:

4 27. A certificate of release or discharge from active duty which was
5 issued by the United States government and delivered to the division,
6 shall be forwarded to the appropriate local veterans' service agency,
7 based upon the mailing address after separation noted on such certifi-
8 cate, within sixty days of receipt. Such transmission may be made elec-
9 tronically. Information contained in such certificates shall be
10 protected as personal confidential information under article six-A of
11 the public officers law against disclosure of confidential material, and
12 used only for information and assistance with regards to state benefits
13 and entitlements under federal and state law.

14 § 2. Section 250 of the military law, as amended by chapter 298 of the
15 laws of 2005, is amended to read as follows:

16 § 250. Recording certificates of honorable discharge. Any certificate
17 issued after April sixth, nineteen hundred seventeen, of the honorable
18 separation from or service in the armed forces of the United States of
19 any veteran, may be recorded in any one county, in the office of the
20 county clerk, and when so recorded shall constitute notice to all public
21 officials of the facts set forth therein. It shall be the duty of the
22 county clerk to record the certificate upon presentation thereof without
23 the payment of any fee. For any purpose for which the original certifi-
24 cate may be required in the state of New York, a certified copy of the
25 record shall be deemed sufficient and shall be accepted in lieu thereof.
26 Notwithstanding any inconsistent provisions of law, it shall be the duty
27 of the county clerk of each county, to furnish without charge to any

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

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1 veteran, or parent, spouse, dependent or child of the veteran, a certi-
2 fied copy of the certificate of the veteran so recorded in the office of
3 the county clerk. No filed certificate or any information contained
4 therein, shall be disclosed to any person except the veteran or parent,
5 spouse, dependent or child of the veteran, representative of the estate
6 of the deceased veteran, an authorized representative of a funeral firm,
7 as defined in section thirty-four hundred of the public health law,
8 which assists with the burial of a veteran, or a public official, acting
9 within the scope of his or her employment, unless such disclosure is
10 authorized in writing by the veteran. The provisions of this section
11 also apply to the counties within the city of New York.

12 § 3. Section 79-g of the civil rights law is amended by adding a new
13 subdivision c to read as follows:

14 c. Notwithstanding any provision in this section to the contrary, such
15 certificate shall be made available for public inspection and copying in
16 accordance with the archival schedule adopted by the national archives
17 and record administration (NARA) together with the United States depart-
18 ment of defense (DOD), signed on July eighth, two thousand eight, making
19 the official military personnel files permanent records of the United
20 States. Such schedule mandates the legal transfer of such files from DOD
21 ownership to NARA ownership sixty-two years after the service member's
22 separation from the military.

23 § 4. This act shall take effect immediately; provided, however, that
24 section two of this act shall take effect on the one hundred eightieth
25 day after it shall have become a law; provided, further, that if chapter
26 571 of the laws of 2019 shall not have taken effect on or before such
27 date then the renumbering of subdivision 24 of section 353 of the execu-
28 tive law, as added by such chapter, made by section one of this act
29 shall take effect on the same date and in the same manner as such chap-
30 ter of the laws of 2019, takes effect. Effective immediately, the addi-
31 tion, amendment and/or repeal of any rules or regulations necessary for
32 the implementation of this act on its effective date are authorized to
33 be made and completed on or before such effective date.