

STATE OF NEW YORK

54--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. BUCHWALD, SEAWRIGHT, L. ROSENTHAL, GOTTFRIED, MOSLEY, SOLAGES, BENEDETTO, STIRPE, GLICK, JEAN-PIERRE, CAHILL, JAFFEE, O'DONNELL, SIMON, DINOWITZ, ARROYO, DAVILA, BLAKE, LIFTON, OTIS, STECK, D'URSO, HUNTER, PAULIN, BARRON, FAHY, ZEBROWSKI, WALLACE, DICKENS, DE LA ROSA, ROZIC -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, COOK, ENGLEBRIGHT, HEVESI, LUPARDO, McDONOUGH, ORTIZ, PRETLOW, RA, RAMOS, THIELE -- read once and referred to the Committee on Veterans' Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 369-1. 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.

§ 369-1. 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

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

LBD00460-03-9

1 which the United States engaged and who has been released from such
2 service.

3 4. "Discharged LGBT veteran" shall mean a veteran who was discharged
4 less than honorably from military or naval service due to their sexual
5 orientation, gender identity or expression, or statements, consensual
6 sexual conduct, or consensual acts relating to sexual orientation,
7 gender identity or expression, or the disclosure of such statements,
8 conduct, or acts, that were prohibited by the armed forces at the time
9 of discharge.

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

12 § 369-m. Eligibility of discharged LGBT veterans for state benefits.

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

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

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

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

32 (a) documents consisting of: (i) a copy of the veteran's discharge
33 papers; (ii) a personal affidavit of the circumstances surrounding the
34 discharge; and (iii) any relevant records pertaining to the discharge;
35 or

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

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

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

50 5. The division shall make available information about the process for
51 obtaining certificates of eligibility for discharged LGBT veterans on
52 the division's website.

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

55 § 369-o. Cooperation and facilities of other departments. To effectuate
56 the purposes of this article, the governor may direct any relevant

1 department, division, board, bureau, commission or agency of the state,
2 or of any political subdivision thereof, to cooperate with and assist
3 and advise the division in the performance of its duties and functions,
4 and to provide such facilities, including personnel, materials and other
5 assistance and data as will enable the division or any of its agencies
6 to properly carry out its activities and effectuate its purposes under
7 this article.

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

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

21 § 4. This act shall take effect on the ninetieth day after it shall
22 have become a law. Effective immediately the addition, amendment and/or
23 repeal of any rule or regulation necessary for the implementation of
24 this act on its effective date are authorized to be made on or before
25 such date.