STATE OF NEW YORK

2354

2023-2024 Regular Sessions

IN ASSEMBLY

January 25, 2023

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the military law, in relation to broadening national guard personnel standards

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

Section 1. Section 3 of the military law, as added by chapter 825 of the laws of 1950, is amended to read as follows:

§ 3. Commander-in-chief; regulations; registration. 1. The governor of the state shall be the commander-in-chief of the militia of the state. The governor is hereby authorized to issue regulations for the government of the militia. Regulations issued by the governor shall have the same force and effect as the provisions of this chapter but they shall conform to the laws and regulations of the United States relating to the organization, discipline and training of the militia, to the provisions of this chapter and, as nearly as practicable to the laws and regulations governing the army, navy and air force of the United States**; provided, however no regulation shall be issued or adopted that denies the opportunity of participation to an individual based on such individual's gender identity or expression, as defined in subdivision three of this section**. The rules and regulations in force at the time of the passage of this chapter, shall remain in force until new rules and regulations are approved and promulgated.

2. Whenever he shall deem it necessary, the governor may direct the members of the unorganized militia to present themselves for and submit to registration at such time and place and in such manner as may be prescribed by regulations issued pursuant to this section.

3. For purposes of this chapter, "gender identity or expression" shall mean a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless

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

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of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

§ 2. Section 4 of the military law, as amended by chapter 468 of the laws of 1976, is amended to read as follows:

§ 4. Equality of treatment and opportunity. It is hereby declared to be the policy of the state that there shall be an equality of treatment and opportunity for all persons in the organized militia without regard to race, creed, color, national origin, gender identity or expression, or sex. Such policy shall be put into effect by regulations to be issued pursuant to section three of this chapter, it being necessary to give due regard to the powers of the United States which are or may be exercised over the militia of the state.

§ 3. Subdivision 2 of section 2 of the military law, as amended by chapter 731 of the laws of 1958, is amended to read as follows:

2. The unorganized militia shall consist of all able-bodied [~~male~~] residents of the state between the ages of seventeen and forty-five who are not serving in any force of the organized militia or who are not on the state reserve list or the state retired list and who are or who have declared their intention to become citizens of the United States, subject, however, to such exemptions from military duty as are created by the laws of the United States; provided however no individual shall be denied admittance based on such individual's gender identity or expression, as defined in subdivision three of section three of this article.

§ 4. This act shall take effect immediately.