

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2162

H.P. 1546

House of Representatives, March 17, 2020

An Act To Restore Honor to Certain Service Members

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Speaker GIDEON of Freeport.
Cosponsored by President JACKSON of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 37-B MRSA §503, sub-§9** is enacted to read:

3 **9. Change in treatment of certain discharges.** The director, in accordance with
4 this subsection, shall establish a process for a veteran who separated from service without
5 an honorable discharge due solely to the veteran's sexual orientation, gender identity or
6 gender expression or to statements, consensual sexual conduct or consensual acts relating
7 to sexual orientation, gender identity or gender expression to have that discharge treated
8 as an honorable discharge for purposes of determining the veteran's eligibility for rights,
9 privileges and benefits granted to veterans under state law.

10 A. If the director determines that a veteran qualifies to have that veteran's discharge
11 treated as an honorable discharge for purposes of state law, the director shall record
12 this information in the records management system maintained pursuant to subsection
13 8 and shall provide the veteran with a written certificate verifying the upgraded
14 discharge status for state law purposes. The director shall assist a veteran to whom a
15 certificate is issued under this paragraph in applying for an upgrade of that veteran's
16 discharge status under federal law, if such an upgrade would entitle the veteran to
17 receive federal benefits.

18 B. All state and municipal departments and agencies shall accept a certificate issued
19 by the director under paragraph A as evidence that the veteran who is the subject of
20 the certificate qualifies as a veteran with an honorable discharge for purposes of
21 determining whether the veteran qualifies for rights, privileges or benefits granted to
22 veterans under state law. The director shall publish and distribute written materials
23 describing the process established under this subsection and the duties of state and
24 municipal departments and agencies under this paragraph.

25 C. The director shall implement an outreach program to inform veterans of the
26 process established under this subsection and to inform veterans that, through this
27 process, they may be able to receive privileges and benefits that were previously
28 denied under state law.

29 D. For purposes of this subsection, "veteran" means a person who served in the
30 United States Armed Forces, the reserve components of the United States Armed
31 Forces, the Maine National Guard or the Active Guard Reserve.

32 **Sec. 2. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 2007, c. 521, §1, is
33 further amended by enacting a new subparagraph (3) to read:

34 (3) "Program of general amnesty" does not include the process for upgrading a
35 discharge for state law purposes under section 503, subsection 9.

36 **Sec. 3. Report.** The Director of the Maine Bureau of Veterans' Services within the
37 Department of Defense, Veterans and Emergency Management shall explore whether
38 other states have established processes for reviewing and potentially upgrading the
39 discharge status, for state law purposes, of veterans who have been diagnosed with post-
40 traumatic stress disorder or traumatic brain injury or who have been diagnosed with
41 psychological trauma resulting from sexual assault or sexual harassment during military

1 service as described in 38 United States Code, Section 1720D and who separated from
2 service without an honorable discharge. By January 15, 2021, the director shall report to
3 the joint standing committee of the Legislature having jurisdiction over veterans affairs
4 on both the potential for implementing such a process in the State and the resources that
5 would be required to implement the process. The joint standing committee of the
6 Legislature having jurisdiction over veterans affairs may report out legislation based upon
7 the report to the First Regular Session of the 130th Legislature.

8 **SUMMARY**

9 This bill requires the Director of the Maine Bureau of Veterans' Services within the
10 Department of Defense, Veterans and Emergency Management to establish a process for
11 a veteran who separated from service without an honorable discharge due solely to the
12 veteran's sexual orientation, gender identity or gender expression or to statements,
13 consensual sexual conduct or consensual acts relating to sexual orientation, gender
14 identity or gender expression to have that discharge treated as an honorable discharge for
15 purposes of determining the veteran's eligibility for rights, privileges and benefits under
16 state law.

17 The bill further requires the director to explore whether other states have established
18 processes for reviewing and potentially upgrading the discharge status, for state law
19 purposes, of veterans who have been diagnosed with post-traumatic stress disorder or
20 traumatic brain injury or who have been diagnosed with psychological trauma resulting
21 from sexual assault or sexual harassment during military service as described in 38
22 United States Code, Section 1720D and who separated from service without an honorable
23 discharge. The director is required to report, no later than January 15, 2021, to the joint
24 standing committee of the Legislature having jurisdiction over veterans affairs on both
25 the potential for implementing such a process in the State and the resources that would be
26 required to implement the process. The committee may report out legislation to the First
27 Regular Session of the 130th Legislature based on the director's report.