

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 173

H.P. 126

House of Representatives, January 25, 2021

An Act To Restore Honor to Certain Service Members

Received by the Clerk of the House on January 21, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT
Clerk

Presented by Representative WOOD of Portland.
Cosponsored by Senator FARRIN of Somerset and
Representatives: CAIAZZO of Scarborough, COREY of Windham, McCREIGHT of
Harpswell, RIELLY of Westbrook, SUPICA of Bangor, Senator: DESCHAMBAULT of York.

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 this
4 subsection, shall establish a process for a veteran who separated from service without an
5 honorable discharge due solely to the veteran's sexual orientation or gender identity or to
6 statements, consensual sexual conduct or consensual acts relating to sexual orientation or
7 gender identity to have that discharge treated as an honorable discharge for purposes of
8 determining the veteran's eligibility for rights, privileges and benefits granted to veterans
9 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 the
20 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 process
26 established under this subsection and to inform veterans that, through this process, they
27 may be able to receive privileges and benefits that were previously denied under state
28 law.

29 D. For purposes of this subsection, "gender identity" has the same meaning as in Title
30 5, section 4553, subsection 5-C; "sexual orientation" has the same meaning as in Title
31 5, section 4553, subsection 9-C; and "veteran" means a person who served in the United
32 States Armed Forces, the reserve components of the United States Armed Forces, the
33 Maine National Guard or the Active Guard Reserve.

34 **Sec. 2. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 2019, c. 601, §1, is
35 further amended by enacting a new subparagraph (3) to read:

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

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

1 described in 38 United States Code, Section 1720D and who separated from service without
2 an honorable discharge. By January 15, 2022, the director shall report to the Joint Standing
3 Committee on Veterans and Legal Affairs on both the potential for implementing such a
4 process in the State and the resources that would be required to implement the process. The
5 Joint Standing Committee on Veterans and Legal Affairs may report out legislation based
6 upon the report to the Second Regular Session of the 130th Legislature.

7 **SUMMARY**

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

15 The bill further requires the director to explore whether other states have established
16 processes for reviewing and potentially upgrading the discharge status, for state law
17 purposes, of veterans who have been diagnosed with post-traumatic stress disorder or
18 traumatic brain injury or who have been diagnosed with psychological trauma resulting
19 from sexual assault or sexual harassment during military service as described in 38 United
20 States Code, Section 1720D and who separated from service without an honorable
21 discharge. The director is required to report, no later than January 15, 2022, to the Joint
22 Standing Committee on Veterans and Legal Affairs on both the potential for implementing
23 such a process in the State and the resources that would be required to implement the
24 process. The committee may report out legislation to the Second Regular Session of the
25 130th Legislature based on the director's report.