

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

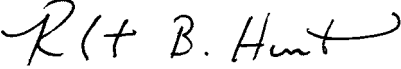
No. 1523

H.P. 978

House of Representatives, April 5, 2023

**An Act to Establish a Qualifying Condition Review Board to
Provide Benefits to Certain Service Members**

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


ROBERT B. HUNT
Clerk

Presented by Representative RIELLY of Westbrook.
Cosponsored by Representatives: BOYER of Poland, MALON of Biddeford, MONTELL of
Gardiner, MOONEN of Portland, SUPICA of Bangor.

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

2 **Sec. 1. 37-B MRSA §503, sub-§9**, as enacted by PL 2021, c. 37, §1, is repealed.

3 **Sec. 2. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 2021, c. 37, §2, is
4 further amended by repealing subparagraph (3).

5 **Sec. 3. 37-B MRSA §517** is enacted to read:

6 **§517. Qualifying Review Board**

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
8 following terms have the following meanings.

9 A. "Board" means the Qualifying Review Board established under this section.

10 B. "Gender identity" has the same meaning as in Title 5, section 4553, subsection 5-C.

11 C. "Sexual orientation" has the same meaning as in Title 5, section 4553, subsection
12 9-C.

13 D. "Veteran" means a person who served in the United States Armed Forces, the
14 reserve components of the United States Armed Forces, the Maine National Guard or
15 the Active Guard Reserve.

16 **2. Board established.** The Qualifying Review Board is established to review
17 applications submitted by veterans under this section.

18 **3. Board composition; terms; chair; compensation; meetings.** The director shall
19 appoint 3 members to serve on the board. Members of the board serve a term of 3 years.
20 The director shall appoint a member to fill a vacancy on the board. The director shall
21 designate one of the members as the chair of the board. The members of the board serve
22 without compensation. The board shall meet at least monthly or as often as determined to
23 be necessary by the chair of the board.

24 **4. Application.** A veteran who receives an other than honorable discharge may file an
25 application for eligibility for rights, privileges and benefits granted to veterans under state
26 law if the veteran believes the discharge characterization was based on:

27 A. The veteran's sexual orientation, gender identity or gender expression;

28 B. Conduct associated with a diagnosis of post-traumatic stress disorder or acquired
29 brain injury; or

30 C. Conduct or circumstances relating to being a victim of military sexual assault.

31 A veteran filing an application under this section may include evidence supporting the
32 veteran's claim that the discharge characterization was based on a reason described in this
33 subsection.

34 The bureau shall prescribe an application form to be used for purposes of this subsection
35 and make that form available on the bureau's publicly accessible website along with
36 instructions for filing the application.

37 **5. Review of application.** The board shall review each application submitted and
38 render a recommendation to the director as to whether the reason cited in the application
39 was more likely than not the primary reason for the other than honorable discharge. The
40 board shall review each application not later than the 30th day after the date the board

1 receives the application and render a written recommendation to the director not later than
2 the 30th day after the date of the review. The director shall issue a written decision not
3 later than the 10th day after the date the director receives the board's recommendation,
4 approving or denying the application. If the director approves the application, the veteran
5 is eligible for rights, privileges and benefits granted to veterans under state law. A veteran
6 aggrieved by the director's decision may file a request for reconsideration with the director
7 not later than the 15th day after the date of the director's decision. The veteran may include
8 supplemental documentation in support of the request for reconsideration. The director
9 shall provide due consideration to the request for reconsideration and render a decision not
10 later than the 10th day after the day the director receives the request for reconsideration.
11 The director's decision with regard to the reconsideration is a final decision by the United
12 States Department of Veterans Affairs and may be appealed by filing a complaint in the
13 Superior Court.

14 **6. Rules.** The bureau may adopt rules to implement this section. Rules adopted in
15 accordance with this subsection are routine technical rules as described under Title 5,
16 chapter 375, subchapter 2-A.

17 SUMMARY

18 This bill repeals a provision requiring the Director of the Maine Bureau of Veterans'
19 Services to establish a process for a veteran who separated from service without an
20 honorable discharge due solely to the veteran's sexual orientation or gender identity to have
21 that discharge treated as an honorable discharge for purposes of determining the veteran's
22 eligibility for rights, privileges and benefits granted to veterans under state law and replaces
23 it with a provision establishing the Qualifying Review Board to review applications
24 submitted by veterans who receive an other than honorable discharge for eligibility for
25 rights, privileges and benefits granted to veterans under state law if the veteran believes the
26 discharge characterization was based on the veteran's sexual orientation, gender identity or
27 gender expression; conduct associated with a diagnosis of post-traumatic stress disorder or
28 acquired brain injury; or conduct or circumstances relating to being a victim of military
29 sexual assault. On approval of an application, the veteran is eligible for rights, privileges
30 and benefits granted to veterans under state law.