

## Memorandum Urging Approval

### COMMITTEE ON VETERANS

Veterans #1-GOV

November 7, 2019

S. 45-B  
A. 8097

By: Senator Hoylman

By: M. of A. Barrett

Senate Committee: Veterans, Homeland Security  
and Military Affairs

Assembly Committee: Ways and Means

Effective Date: One year after it shall have  
become a law.

**AN ACT** to amend the executive law, the civil service law, the county law, the economic development law, the education law, the election law, the general construction law, the general municipal law, the military law, the correction law, the environmental conservation law, the general business law, the highway law, the insurance law, the judiciary law, the private housing finance law, the public health law, the public housing law, the public officers law, the real property tax law, the social services law, the tax law, the town law, the vehicle and traffic law, and the workers' compensation law, in relation to veterans with qualifying conditions and discharged LGBT veterans.

**LAW & SECTION REFERRED TO:** Section 350 of the executive law.

### **THE COMMITTEE ON VETERANS** **SUPPORTS THIS LEGISLATION AND URGES ITS APPROVAL**

Many military veterans have received less than honorable discharges, also known as “bad papers”, as a result of Traumatic Brain Injury (TBI), Post-Traumatic Stress Disorder (PTSD), Military Sexual Trauma (MST), or as a result of sexual orientation, gender identity, or expression. The former federal policy known as “Don't Ask Don't Tell” has also caused issuance of bad paper. Before the repeal of Don't Ask Don't Tell in 2011, an estimated 114,000 military personnel were discharged as a result of their sexual orientation. Those without an honorable discharge are often excluded from veterans' benefits like health care and tuition assistance, and the lack of an honorable discharge can create a hurdle to employment in the civilian sector as well.

These discharges cannot be revised by the state; however, a number of state benefits require an honorable discharge. Therefore, many New York veterans are ineligible for state benefits because of these bad papers. This legislation would enhance the ability of veterans to receive those state benefits. The bill identifies 53 state benefits from which they are excluded. It is estimated that thousands of those veterans live in the state of New York.

The Certificate of Release or Discharge from Active Duty (form DD 214) is a document that the U.S. Department of Defense issues upon a military service member's retirement, separation or discharge from active duty in the United States Armed Forces. It is a military service document that represents a complete, verified record of a service member's time in the military on active or reserve duty. This important document also contains separation information including type of separation and character of service.

This legislation would amend various sections of state law in connection with the phrases "under honorable conditions" or "has been honorably discharged" to include allowance for veterans with a qualifying condition, such as PTSD, MST or TBI, who have received a discharge other than bad conduct or dishonorable from such service. The bill would also help LGBT veterans who were discharged on the basis of their sexual orientation and received bad papers as a result.

The bill would add provisions to the Executive Law defining the term "qualifying condition" and require the Division of Veterans' Services to develop a standardized form used to confirm that the veteran has a qualifying condition. It also would establish a consistent and uniform process to determine whether a veteran qualifies as a discharged LGBT veteran, including at a minimum, standards for verifying a veteran's status as a discharged LGBT veteran and a method of demonstrating eligibility as a discharged LGBT veteran.

Moreover, the bill would amend several sections of law to expand eligibility for state benefits to veterans who have a qualifying condition, and who have received a discharge other than for bad conduct or dishonorable from such service and for discharged LGBT veterans who have received a discharge other than bad conduct or dishonorable from such service.

The Association's Committee on Veterans believes that the legislative intent behind the bill is meritorious and that this bill is a start to addressing issues relating to discharge of veterans. Beyond the scope of this bill, we anticipate that state policymakers will continue to advance the best interest of all veterans.

Based on the foregoing, the NYSBA's Committee on Veterans **SUPPORTS** this legislation and **URGES ITS APPROVAL** by the Governor.