

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: February 24, 2021
To: Veterans and Legal Affairs Committee
From: Sam Praver, Legislative Analyst

LD 173 An Act To Restore Honor to Certain Service Members

SUMMARY:

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

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

ADDITIONAL INFORMATION:

- A previous version of this bill ([LD 2162](#)) was before the VLA Committee during the 129th Legislature and was reported out with a vote of “OTP-AM.” That version of the bill did not receive final action due to the shutdown. As drafted, the current bill appears to represent the same language as the committee amendment from the 129th Legislature, except the report back date has changed.
- Link to [State of Maine Veterans' Benefits Eligibility Chart](#).
- Link to Congressional Research Service report: [Veterans' Benefits: The Impact of Military Discharges on Basic Eligibility](#). See the following within the report:
 - Table. 1. Eligibility for Common VA Benefits by Military Character of Discharge (page 11)
 - Appendix A. Descriptions of Military Character of Discharge (page 22)
- Links to full sections amended by the bill: [37-B MRS §503](#) and [37-B MRS §504](#).
- Link to [5 MRS §4553](#) for definitions of “Gender Identity” (sub-§5C) and “Sexual Orientation” (sub-§9C) as references in the bill.
- Link to [38 USC, Section 1720D](#) as referenced in Sec. 3. of the bill.

ISSUES RAISED AT PUBLIC HEARING:

None.

TECHNICAL ISSUES:

None identified.

FISCAL IMPACT:

No preliminary fiscal information available at the time of writing. However, the fiscal note for the previous version of the bill indicated that additional costs to the Department of Defense, Veterans and Emergency Management associated with the bill could be absorbed within existing budgeted resources.