

LOCAL LAW NO. "X" FOR 2016

A LOCAL LAW TO BESTOW ANY AND ALL COUNTY LEVEL PRIVILEGES TO VETERANS WHO WERE DISCHARGED FROM THE MILITARY FOR THEIR LESBIAN/GAY/BISEXUAL/TRANSGENDER STATUS UNDER THE FEDERAL DON'T ASK DON'T TELL LAW

Introduced: 12/5/16

By Messrs. A. Joyce, B. Clenahan, C. Higgins, R. Joyce, G. Domalewicz, A. McLean-Lane, D. Bullock, L. Lekakis, J. Cunningham, Messrs. Miller, Reinhardt, O'Brien, Beston, Fein, Crouse, Tunny and Ms. Lockart:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, as follows:

Section 1. Legislative Intent.

The Legislature hereby finds and determines that with the repeal of the military's Don't Ask, Don't Tell (DADT) policy in 2011, a bright new chapter has begun for LGBT service members. For the first time in the history of the United States military, gay lesbian and transgender service members can serve openly without fear of reprisal or discharge

The Legislature finds that it is undeniable that 5 years after the repeal has occurred, the military is more welcoming toward LGBT individuals today than at anypoint in its history.

The Legislature finds that Albany County, being a leader in equality and justice for all, will not forget the generations of LGBT veterans who suffered through past institutional discrimination and were forced out of military service due to their sexual orientation or gender identity. An estimated 114,000 service members have been discharged because of their sexual orientation or gender identity since World War II, leaving many with tarnished military records and reputations that have unfairly jeopardized their ability to access jobs, scholarships, and vital services

The Legislature finds that a comprehensive review of services offered to Albany County residents through the Veteran's Services Bureau are directly contingent upon the veteran's discharge status. After demonstrating unparalleled service and risking their lives for our nation, it is our obligation to extend a hand to all of our distinguished veterans, many who experience great difficulty assimilating back into civilian life.

The Legislature finds that The State and Federal government is in the best position to act to once and for all restore LGBT veterans' discharge records to reflect their honorable service. Unfortunately, legislation to do this has stalled at those levels.

The Legislature finds that while we wait for Washington, D.C. and the State Legislature to act, it is once again incumbent upon Albany County to lead the way. This legislation will ensure that veterans whose discharges were less than honorable due solely to their sexual orientation or gender identity are not impeded from receiving County benefits for which they would otherwise be eligible.

Therefore, the purpose of this local law is to bestow any and all County level privileges, including but not limited to Return the Favor and the Veterans' Property Tax rebate, to veterans who were discharged from the military solely for their Lesbian/Gay/Bisexual/Transgender status under the Federal "Don't Ask Don't Tell" law.

Section 2. Title.

This Local Law shall be known as "The Albany County Restoration of Honor Act."

Section 3. Definitions.

As used in this law, the following terms shall have the meanings indicated:

Definitions. As used in this article:

1. "Bureau" means the Albany County Veterans Bureau.
2. "Director" means the Albany County Veterans Bureau Director.
3. "Veteran" means a resident of Albany County who has served in the active military or naval service of the United States during a war in which the United States engaged and who has been released from such service.
4. "Discharged LGBT veteran" shall mean a veteran who was discharged less than honorably from military or naval service due to their sexual orientation, gender identity or expression, or statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity or expression, or the disclosure of such statements, conduct, or acts, that were prohibited by the armed forces at the time of discharge.
5. "Armed forces" means the military and naval forces of the United States.

Section 4. Prohibitions.

5 Eligibility of discharged LGBT veterans for County benefits.

1. Notwithstanding any other provision of law, no veteran shall be denied eligibility for any Albany County program, service or benefit

to veterans for which they would otherwise be eligible, solely on the basis of the veteran's status as a discharged LGBT veteran.

2. A certificate of eligibility issued by the Bureau to a discharged LGBT veteran shall be sufficient proof of eligibility for any such benefit.

3. The Bureau shall establish a consistent and uniform process for the issuance of certificates of eligibility for discharged LGBT veterans to act as proof of eligibility for any program, service, benefit, or activity of the state or any political subdivision of the state.

4. A discharged LGBT veteran seeking such a certificate of eligibility shall be required to provide:

(a) Documents consisting of:

(i) a copy of the veteran's discharge papers;

(ii) a personal affidavit of the circumstances surrounding the discharge; and any relevant records pertaining to the discharge;

5. If a discharged LGBT veteran provides the division with an affidavit described in paragraph 4 this section, the Bureau may attempt to retrieve the document from the United States Department of Defense (DOD).

6. A discharged LGBT veteran shall only receive such certification from the Bureau if, with respect to their original discharge, there were no aggravating circumstances that would have independently led to a discharge characterization that was less than honorable.

7. The Bureau shall make available information about the process for obtaining certificates of eligibility for discharged LGBT veterans on the Bureau's website.

46 6. The Bureau Director shall promulgate and adopt suitable rules and regulations to carry out the provisions of this local law.

Section 5. Enforcement.

This law shall be enforced by the Bureau in accordance with the provisions of the Albany County Charter and Code.

Section 6. Authority to Promulgate Rules and Regulations.

The Director of the Bureau is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this local law.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. State Environmental Quality Review Act compliance.

This County Legislature determines that the foregoing action constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

Section 9. Effective Date.

This law shall take effect upon its filing in the Albany County Veteran's Services Bureau.

Referred to Law Committee. 12/5/16.