

LOCAL LAW NO. 7 FOR 2017

A LOCAL LAW TO BESTOW 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, Ward, Commisso, Mauriello, Clenahan, Higgins, R. Joyce, Domalewicz, Ms. McLean-Lane, Mr. Bullock, Mss. Lekakis, Cunningham, Messrs. Fein, Miller, Ms. Lockart, Messrs. Reinhardt Beston, Burgdorf, Ms. Chapman, Messrs. Clay, Crouse, Drake, Duncan, Ethier, Feeney, Grimm, Hogan, A. Joyce, Mayo, Ms. McKnight, Messrs. Mendick, O'Brien, Signoracci, Smith, Stevens, Touchette, Tunny, and Ms. Willingham:

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 policy of the United States' military known as Don't Ask, Don't Tell (DADT) in 2011, a bright new chapter has begun for LGBT service members. For the first time in the history of the United States military, LGBT 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 any point 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 employment, scholarships, and vital services.

The Legislature finds that the 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 of whom experience great difficulty assimilating back into civilian life.

The Legislature finds that, while the Federal government is best suited to effect restoration of LGBT veterans' discharge records, legislation at the Federal and State level has gone nowhere.

The Legislature finds that the benefits owed these veterans can no longer be set aside, and it is 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. Furthermore, this legislation will ensure that all such veterans who are residents of Albany County and seek to have their status restored at the Federal level will be provided assistance from the Albany County Veterans Bureau in correcting their discharge status.

Therefore, the purpose of this local law is to bestow any and all County level privileges, including but not limited to Civil Service Veteran's Credits, Return the Favor benefits and the Veterans' Property Tax rebate, to veterans who were discharged from the military solely for their LGBT status under the Federal "Don't Ask Don't Tell" policy as well as to assist all eligible resident veterans in applying for modifications to their discharge status with the branch of military in which they served.

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" shall mean the Albany County Veterans Bureau.
2. "Director" shall mean the Albany County Veterans Bureau Director.
3. "Veteran" shall mean 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 solely due to DADT or a similar policy in place prior to the enactment of DADT.
5. "Armed forces" shall mean the military and naval forces of the United States.

Section 4. Enforcement.

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. Any discharged LGBT veteran seeking assistance in requesting discharge characterization upgrades, changes of narrative reasons for discharge, changes of separation and separation program designator codes and changes of

reentry/reenlistment codes shall be provided such assistance by the Bureau, where there are no aggravating factors related to the discharge.

3. Independent of Section 4, clause 2, a certificate of eligibility issued by the Bureau to a discharged LGBT veteran shall be sufficient proof of eligibility for any such Albany County program, service or benefit.

4. The Bureau shall establish a consistent and uniform process for providing assistance in requesting changes to the discharge records of a discharged LGBT veteran through their branch of the Armed forces, and the issuance of certificates of eligibility for discharged LGBT veterans to act as proof of eligibility for any program, service or benefit of the county.

5. A discharged LGBT veteran seeking such assistance or 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;

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

7. A discharged LGBT veteran shall only receive such assistance and 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.

8. The Bureau shall make available information about the process for obtaining assistance in requesting changes to the discharge records and certificates of eligibility for discharged LGBT veterans on the Bureau's website.

9. 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 local law shall take effect upon its filing in the Secretary of State.