Committee on Veterans

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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON VETERANS**

**Hon. Eric Dinowitz, Chair**

**December 9, 2021**

**INTRODUCTION NO. 479-A:** By Council Members Dromm, Kallos and Dinowitz

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to offering discharge upgrade assistance and extending city veteran benefits to service members who were discharged because of their LGBTQ status

**ADMINISTRATIVE CODE:** Adds a new section 31-112

**INTRODUCTION NO. 2354-B:** By Council Members Dinowitz and Vallone

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to the definition of the term veteran and the membership of the veterans' advisory board

**CHARTER:** Amends Sections 31-101 and 31-112

1. **INTRODUCTION**

On December 8, 2021, the Committee on Veterans, chaired by Council Member Dinowitz, held a vote on Intro. No. 479-A, a Local Law to amend the administrative code of the city of New York, in relation to offering discharge upgrade assistance and extending city veteran benefits to service members who were discharged because of their LGBTQ status, sponsored by Council Members Dromm. This legislation was originally heard at a hearing of this committee on November 26, 2018, at which the committee received testimony from representatives from the New York City Department of Veterans’ Services (DVS), veterans’ advocates and service providers.

On December 8, 2021, the Committee on Veterans also held a vote on Intro. 2354-B, a Local Law to amend the New York city charter, in relation to the definition of the term veteran and the membership of the veterans' advisory board, sponsored by Council Member Dinowitz. This legislation was previously heard at a hearing of this committee on September 27, 2021, at which the committee received testimony from DVS, legal service providers and veterans’ advocates.

1. **BACKGROUND**

A veteran’s character of discharge can have a profound effect on their entire life after military service.[[1]](#footnote-1) Service members who leave the military with anything other than an honorable discharge, commonly referred to as a “bad paper” discharge, are often ineligible for many veterans’ benefits and services, and may struggle looking for work as dishonorable discharges often suggest to employers a history of crime or unreliability.[[2]](#footnote-2) These benefits can include educational opportunities, medical benefits, pension benefits, home loan benefits, and even access to healthcare.[[3]](#footnote-3) Upgrading an unjust discharge may lead to greater eligibility for federal, state and local benefits, more opportunities to obtain better employment and housing, and even simple vindication.[[4]](#footnote-4)

Historically, many service members received "bad paper" discharges for performance issues and conduct related to undiagnosed Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI), sexual orientation and gender identity, Military Sexual Trauma, and other conduct related to conditions that would otherwise be understood or treated differently today.[[5]](#footnote-5) For example, under the military’s discriminatory Don’t Ask, Don’t Tell (DADT) policy, which was in effect from 1994 to 2011, more than 13,000 LGBTQ+ veterans were unjustly discharged.[[6]](#footnote-6)

Even as policies and legislation have been updated, it remains the responsibility of each veteran to petition the appropriate discharge review board with the often extensive documentation and legal preparations needed to successfully upgrade an adverse discharge.

1. **Update**

The Committee on Veterans passed Introduction No. 479-A by a vote of four in the affirmative, zero in the negative, and zero abstentions. The Committee also passed Introduction No. 2354-B by a vote of four in the affirmative, zero in the negative and zero abstentions.

1. **Bill Analysis**

**Int. No. 479-A** - *A Local Law to amend the administrative code of the city of New York, in relation to offering discharge upgrade assistance and extending city veteran benefits to service members who were discharged because of their LGBTQ status*

This bill would extend all city benefits and services to veterans who have bad discharge papers due solely or in part to their sexual orientation, gender identity or expression, or, for veterans who identify as LGBTQ, untreated trauma, including that resulting from sexual assault which occurred during military service. This bill would also require DVS to issue a certificate of eligibility to a discharged LGBTQ veteran on request that can be used as proof of their eligibility to receive certain city benefits and services available to veterans. This bill further requires DVS to offer discharge upgrade assistance to LGBTQ veterans who were discharged from military service with an other-than-honorable discharge status due solely or in part to sexual orientation, gender identity or expression, or, for veterans who identify as LGBTQ, untreated trauma, including that resulting from sexual assault which occurred during military service.

Since this legislation was initially heard, it was amended to require DVS to conduct outreach to raise awareness about these certificates of eligibility and the availability of legal services for discharged LGBTQ veterans, and to also make information about obtaining such certificates or legal services available on the department’s website. Additionally, the bill was amended to require DVS to periodically review veterans’ experience with accessing discharge upgrade assistance and to report annually to the Council on any identified issues beginning on June 1, 2022.

This bill would take effect 120 days after it becomes law.

**Int. No. 2354-B** - *A Local Law to amend the New York city charter, in relation to the definition of the term veteran and the membership of the veterans' advisory board*

This bill would amend the definition of the term “veteran” under the city Charter to include persons who currently serve or who have served in the United States military regardless of time served or discharge status. This expanded definition would ensure that all New York City veterans are eligible for city services and benefits. This bill would also expand the Veterans’ Advisory Board (VAB) from 11 members to 13. The board would include two new members who are either an immediate family member, spouse or domestic partner, survivor or caregiver of a veteran.

Since this legislation was initially heard, it was amended to require vacancies on the Veterans’ Advisory Board to be filled within 120 days from the date of such vacancy, and the definition of the term “veteran” was expanded to explicitly include individuals who served in the Coast Guard.

This bill would take effect 120 days after it becomes law.

Int. No. 479-A

By Council Members Dromm, Kallos and Dinowitz

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to offering discharge upgrade assistance and extending city veteran benefits to service members who were discharged because of their LGBTQ status

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Be it enacted by the Council as follows:

Section 1. Title 31 of the administrative code of the city of New York is amended by adding a new section 31-112 to read as follows:

§ 31-112 Benefits and assistance for LGBTQ veterans. a. For purposes of this section, the following terms have the following meaning:

Certificate of eligibility. The term “certificate of eligibility” means a certificate issued by the department that can be used as proof that a discharged LGBTQ veteran is eligible for certain city benefits or services available to veterans.

Discharged LGBTQ veteran. The term “discharged LGBTQ veteran” means a veteran who was discharged from the United States military or naval services due solely or in part to (i) sexual orientation, gender identity or expression; (ii) statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity or expression; (iii) the disclosure of such statements, conduct or acts, that were prohibited by the armed forces at the time of discharge; or (iv) for veterans who identify as LGBTQ, untreated trauma, including that resulting from sexual assault which occurred during military service.

b. Notwithstanding any other provision of law, no veteran shall be denied eligibility for any city 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 LGBTQ veteran.

c. The department shall offer assistance to any discharged LGBTQ veteran seeking a discharge characterization upgrade, change of narrative reasons for discharge, change of separation and separation program designator codes or change of reentry/reenlistment. Such assistance shall be provided by legal counsel or an accredited representative of an organization recognized under section 5902 of title 38 of the United States code or successor provisions.

d. Upon request, the department shall issue a certificate of eligibility to a discharged LGBTQ veteran as proof of their eligibility to receive certain services and benefits for veterans.

e. The department shall:

1. Make available on the department’s website information about (i) obtaining certificates of eligibility for discharged LGBTQ veterans and (ii) the availability of legal assistance, to any discharged LGBTQ veteran seeking a discharge characterization upgrade, change of narrative reasons for discharge, change of separation and separation program designator codes or change of reentry/reenlistment; and

2. Conduct outreach through email, social media and other means to raise awareness about such certificates and the availability of such legal assistance.

f. The department shall periodically review veterans’ experience with accessing the assistance required pursuant to subdivision c of this section and shall report any identified issues to the speaker of the council by June 1, 2022, and annually thereafter.

§ 2. This local law takes effect 120 days after enactment.

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Int. No. 2354-B

By Council Members Dinowitz, Vallone and Yeger (by request of the Mayor)

..Title

A LOCAL LAW

To amend the New York city charter, in relation to the definition of the term veteran and the membership of the veterans’ advisory board

..Body

Be it enacted by the Council as follows:

Section 1. Section 3101 of the New York city charter, as added by local law number 113 for the year 2015, is amended to read as follows:

§ 3101. Definition. As used in this chapter, the following term has the following meaning:

Veteran. The term "veteran" [shall mean] means a person who serves or has served in the active military service [of the United States and who has been released from such service other than by dishonorable discharge, or who has been furloughed to the reserve], including the navy, coast guard, air force, marines, army, space force, and their respective national guard or reserve components, regardless of discharge status or time served. “Veteran” also means a person who serves or has served in the United States public health service or as a commissioned member of the national oceanic and atmospheric administration.

§ 2. Section 3103 of the New York city charter, as added by local law number 113 for the year 2015, is amended to read as follows:

§ 3103. Veterans' advisory board. a. There shall be a veterans' advisory board consisting of [eleven] 13 members, [all] 11 of whom shall be veterans[, six of whom] and two of whom shall be immediate family members, spouses or domestic partners, survivors, or caregivers of veterans. Of these 13 members, seven shall be appointed by the mayor, including one immediate family member, spouse or domestic partner, survivor or caregiver of a veteran, and [five of whom] six shall be appointed by the speaker of the council, including one immediate family member, spouse or domestic partner, survivor or caregiver of a veteran. Of these [eleven appointees] 13 members, there shall be at least one representative from each of the five boroughs of the city of New York. The mayor and the speaker shall each consider service in conflicts involving members of the United States armed forces when making such appointments.

b. All members shall serve for a term of three years and may be removed by the appointing official for cause. Members of the advisory board shall elect by majority vote one such member to serve as [chairperson] chair and one such member to serve as [vice-chairperson] vice chair, each to serve in that capacity for one-year terms. In the event of a vacancy on the advisory board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment within 120 days from the date such vacancy occurred. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

c. The advisory board shall:

[(i) advise] 1. Advise the commissioner on all matters concerning veterans;

[(ii) hold] 2. Hold at least one meeting open to the public in each borough on an annual basis, with notice of each public meeting provided in accordance with the public notice requirements of article 7 of the public officers law except with respect to those requirements provided in section 31-105 of the administrative code, and with each public meeting recorded and broadcast in accordance with subdivision d of section 1063 of the charter;

[(iii) keep] 3. Keep a record of its deliberations;

[(iv) determine] 4. Determine its own rules of procedure; and

[(v) submit] 5. Submit an annual report of its activities to the mayor and the council on or before December 31 of each year. Such annual report should include policy and legislative recommendations for the department of veterans' services and the council.

d. The department shall maintain on its website and regularly update a list of all members appointed to serve on the veterans’ advisory board, including information about each member’s term, appointing official and any additional information deemed by the department to be relevant.

§ 3. This local law takes effect 120 days after it becomes law.

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1. U.S. Dep’t of Veterans Affairs, *Applying for Benefits and Your Character of Discharge*, available at <https://www.benefits.va.gov/benefits/character_of_discharge.asp> (accessed on Sept. 16, 2021). [↑](#footnote-ref-1)
2. *Id*. [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Id.*  [↑](#footnote-ref-4)
5. Kristofer S. Goldsmith, *et. al*., *Restoring Honor to Veterans with Invisible Injuries*, Columbia University (Dec. 2015), available at <https://www.congress.gov/116/meeting/house/110852/witnesses/HHRG-116-VR09-Wstate-GoldsmithK-20200708-SD001.pdf> (accessed on Sept. 16, 2021). [↑](#footnote-ref-5)
6. Jennifer McDermott, *Few Veterans Expelled under ‘Don’t Ask’ Policy Seek Remedy*, The Associated Press, (Jun. 24, 2016), available at <https://www.militarytimes.com/veterans/2016/06/24/few-vets-expelled-under-don-t-ask-seek-remedy/> (accessed on Sept. 16, 2021). [↑](#footnote-ref-6)