

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 491

(Senator Gile, *et al.*)

Education, Energy, and the Environment

Health and Government Operations

General Provisions - Veterans Benefits - Honorable Discharge

This bill, with respect to any State program of benefits, rights, or privileges applicable to a veteran under Maryland law, alters the definition of “honorable discharge” to include a discharge that is less than honorable if the Department of Veterans and Military Families (DVMF) determines an individual is eligible for State benefits based on the criteria established in 38 C.F.R. § 3.12 (“benefit eligibility based on character of discharge”).

Fiscal Summary

State Effect: DVMF can offer State veterans’ benefits to specified veterans using existing budgeted resources, as discussed below. The bill is not otherwise anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: With respect to any State program of benefits, rights, or privileges applicable to a veteran under Maryland law, “honorable discharge” includes discharge that is less than honorable (1) solely due to the sexual orientation or gender identity of the individual being discharged or (2) based on a statement or consensual act of the individual being discharged related to the individual’s sexual orientation or gender identity, if the statement or consensual act was prohibited by the military or naval service at the time of

discharge. A veteran must submit to the Secretary of Veterans and Military Families documentation that provides the basis for the veteran's discharge.

Title 9, Subtitle 9 of the State Government Article (Department of Veterans and Military Families) defines "veteran" as an individual who served on active duty in the armed forces of the United States, other than for training, and was discharged or released under conditions other than dishonorable.

Generally, DVMF delivers services and programs to assist Maryland veterans, their families, and survivors in obtaining State, federal, and local benefits provided by law in recognition for their service. DVMF assures the quality maintenance of veterans' cemeteries and memorials to honor Maryland veterans. DVMF also manages Charlotte Hall Veterans Home (CHVH), an assisted living and skilled nursing facility for veterans and their eligible spouses who are unable to care for themselves due to disability, advancing age, or who require nursing home care. Additionally, DVMF engages in public awareness and outreach to veterans, their families, and other stakeholders.

Federal Veterans' Benefits Eligibility Based on Character of Discharge

Generally, for a veteran to receive federal veterans' benefits, the veteran's character of discharge must be considered other than dishonorable (*e.g.*, honorable, under honorable conditions, and general), though veterans' benefits are not payable where the former service member was discharged or released under the following conditions: (1) as a conscientious objector who refused to perform military duty, wear the uniform, or comply with lawful orders of competent military authorities; (2) by reason of the sentence of a general court-martial; (3) resignation by an officer for the good of the service; (4) as a deserter; (5) as an alien during a period of hostilities, where it is affirmatively shown that the former service member requested his or her release; or (6) by reason of a discharge under other than honorable conditions issued as a result of an absence without official leave for a continuous period of at least 180 days, as specified.

Individuals receiving an undesirable, bad conduct, or other than honorable discharge may be able to receive veterans' benefits with a "compelling circumstances exception" after an examination of specified factors that may generally mitigate certain forms of misconduct or an absence without official leave. Those factors include (1) specified mental or cognitive impairments at the time of the prolonged absence or misconduct; (2) physical health, including physical trauma and any side effects of medication; (3) combat-related or overseas-related hardship; (4) sexual abuse/assault; (5) duress, coercion, or desperation; (6) family obligations or comparable obligations to third parties; or (7) age, education, cultural background, and judgmental maturity. However, a compelling circumstances exception is not applicable for discharges in lieu of trial, mutiny, or espionage, as specified.

An individual may also request a review of the discharge by a discharge review board. Generally, discharge review boards review the character, reason, and authority of a discharge of any service member discharged from active military service within the past 15 years and are authorized to upgrade the discharge characterization under specified conditions.

State Fiscal Effect: DVMF advises that it can determine the discharge status of individuals affected under the bill and the basis for the discharge with existing budgeted resources. DVMF also advises that it can administer State veterans' benefits within existing resources. However, DVMF advises that the programs it administers generally involve receipt of federal funds for affected veterans. Some individuals may already be able to receive a compelling circumstances exception or an upgraded discharge characterization and, therefore, be eligible for federal veterans' benefits. However, DVMF may determine some individuals may qualify for State veterans' benefits but not receive a compelling circumstances exception or an upgraded discharge characterization. As a result, DVMF may be unable to receive per diem reimbursement from the federal government for individuals affected under the bill who are housed at CHVH, or burial benefits for the Cemetery Program after an individual is buried. DVMF advises that the department can absorb those costs with general funds; however, an exact estimate of those costs is not available at this time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 699 (Delegate Allen, *et al.*) - Health and Government Operations.

Information Source(s): Department of Veterans and Military Families; U.S. Department of Veterans Affairs; U.S. Department of the Army; Department of Legislative Services

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