

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 491 (Senator Gile, *et al.*)
Education, Energy, and the Environment

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 based on an incident or incidents relating to (1) a diagnosis of post-traumatic stress disorder (PTSD) or traumatic brain injury made by an individual licensed to provide health care services at a U.S. Department of Veterans Affairs (USVA) facility or (2) an experience of sexual trauma, as described under specified federal law, disclosed to an individual licensed to provide health care services at a USVA facility.

Fiscal Summary

State Effect: The Department of Veterans and Military Families (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 Benefit 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). However, individuals receiving an undesirable, bad conduct, or other than honorable discharge may be able to receive veterans' benefits with a "compelling circumstances exception" to the extent they qualify under compelling circumstances. Those circumstances include, among other factors, specified mental or cognitive impairments at the time of misconduct (including PTSD) and sexual abuse/assault.

Federal Counseling and Treatment for Sexual Trauma for Veterans

Generally, 38 U.S.C. § 1720D requires the Secretary of Veterans Affairs to operate a program that provides counseling and other services to former members of the armed forces who are determined to require specified services to treat a condition that resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment that occurred while they were serving on duty, regardless of duty status or line of duty determination, as specified. In operating the program, the Secretary may provide specified services to members of the armed forces (including members of the National Guard and reserves) to treat specified conditions. Further, 38 U.S.C. § 1720D defines

“sexual harassment” to mean unsolicited verbal or physical contact of a sexual nature, which is threatening in character.

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 and, therefore, be eligible for federal veterans’ benefits. However, some individuals may receive a diagnosis of PTSD or traumatic brain injury by an individual at a USVA facility, or disclose past sexual trauma at a USVA facility, and subsequently not receive a compelling circumstances exception. 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; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2025
caw/jkb

Analysis by: Thomas S. Elder

Direct Inquiries to:
(410) 946-5510
(301) 970-5510