



**Statement of the Maryland Federation of
National Active and Retired Federal Employees
Senate Education, Energy and the Environment Committee Hearing,
February 20, 2025
On SB 491 – General Provisions – Veterans Benefits – Honorable Discharge**

(Position – FAV)

Good Afternoon, Chairman Feldman, Vice-Chair Kagan and members of the Education, Energy and the Environment Committee. I am pleased to provide this written statement and testify today on behalf of the State Legislative Committee of the Maryland National and Active and Retired Federal Employees Association (NARFE), representing approximately 317,000 federal annuitants and employees in Maryland. For the continuing benefit of the more than 3,100 Veterans who are Maryland NARFE members – and for all Maryland Veterans - we support and ask you for a favorable report on SB 491 – General Provisions – Veterans Benefits –

Honorable Discharge. We thank Senator Dawn Gile and the other Co-Sponsors for introducing this Bill.

SB 491 will change existing Maryland Veterans law to expand the definition of "honorable discharge" to include discharges other than honorable which were based on incidents relating to a diagnosis of post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI), which the Veteran received from an individual licensed to provide health services at a U.S. Department of Veterans Affairs facility, or based on an experience of military sexual trauma (MST)¹ which the Veteran disclosed to an individual licensed to provide health care services at a certain Veterans Affairs facility.

1

Military sexual trauma, or MST, is the term used by VA to refer to experiences of sexual assault or repeated, threatening sexual harassment that a Veteran experienced during his or her military service. The definition used by the VA comes from Federal law (Title 38 U.S. Code 1720D) and is "psychological trauma, which in the judgment of a VA mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the Veteran was serving on active duty or active duty for training." Sexual harassment is further defined as "repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character." More concretely, MST includes any sexual activity where a Service member is involved against his or her will -- he or she may have been pressured into sexual activities (for example, with threats of negative consequences for refusing to be sexually cooperative or with implied better treatment in exchange for sex), may have been unable to consent to sexual activities (for example, when intoxicated), or may have been physically forced into sexual activities. Other experiences that fall into the category of MST include unwanted sexual touching or grabbing; threatening, offensive remarks about a person's body or sexual activities; and threatening and unwelcome sexual advances. The identity or characteristics of the perpetrator, whether the Service member was on or off duty at the time, and whether he or she was on or off base at the time do not matter. If these experiences occurred while an individual was on active duty or active duty for training, they are considered by VA to be MST. (From VA Fact Sheet on MST, April 2014

Under this new definition of “honorable discharge,” Veterans who previously could not qualify for certain Veterans benefits in Maryland because their discharge was other than honorable for the reasons directly above will now be eligible for such benefits.

SB 491 will follow the example of the Restoration of Honor Act, Maryland legislation passed and signed into law by Governor Larry Hogan in May, 2022. This law changed the then definition of “honorable discharge” to include discharges other 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.²

Why SB 491 is needed

Military discharges are categorized into several types, including Honorable, General (under honorable conditions), Other Than Honorable (OTH), Bad Conduct, and Dishonorable. The type of discharge a service member receives significantly affects their post-military life, particularly regarding access to veterans' benefits and employment opportunities.

Many Veterans have received discharges other than honorable because of their service-related experiences of PTSD, TBI and MST. In data from 2014, the Department of Defense

² Article – General Provisions, Section 1–109.1, Annotated Code of Maryland, (2019 Replacement Volume and 2021 Supplement)

(DoD) released records indicating that 13% of post-9/11 veterans, around 318,000, received a less-than-honorable discharge between fiscal years (FY) 2000 – 2013. From 2009 to 2015, the Army has separated at least 22,000 combat veterans who had been diagnosed with mental health disabilities like PTSD or TBI for alleged misconduct, despite reforms intended to halt the administrative separations of veterans suffering from service-related conditions. These unjustly discharged veterans were ineligible for veterans' benefits, and the impacts of the "less-than-honorable" discharges made them socially isolated from the military and veterans community, and more likely to be homeless, suffer from substance abuse, go without treatment for physical and mental injuries, become incarcerated, and die by suicide.³

In that time (from 2000-2015), there was an increasing recognition of the impact of PTSD and TBI on service members' conduct, including the acknowledgement that some behaviors leading to less than honorable discharges were linked to service-related mental health issues. The Pentagon issued policy guidance in in this area, such as the 2014 memorandum from Secretary Chuck Hagel directing discharge review boards to give "liberal consideration" to petitions where PTSD or other mental health conditions played a role in the misconduct leading to the discharge. In 2017, a memorandum from Undersecretary Kurta expanded on the Hagel Memorandum by instructing discharge review boards to consider any underlying mental health condition as a mitigating factor in military misconduct.⁴

³Restoring Honor To Veterans With Invisible Injuries, Goldsmith, Kristofer; Russell, Dr. Judith; Columbia University, December 2015.

⁴ Shifting Tides: The Evolution of Discharge Policies and Their Lasting Impacts on Veterans; Linares, Andrew, March 20, 2024, found at: <https://www.linkedin.com/pulse/shifting-tides-evolution-discharge-policies-lasting-impact-veterans-1tt3c>

Regarding MST, Veterans also may receive less than honorable discharges due to misconduct which they believe resulted from their experience of sexual assault and/or sexual harassment trauma. In the 2017 DOD memorandum, it was noted that “evidence of misconduct, including any misconduct underlying a Veteran’s discharge may be evidence of ...behavior consistent with experiencing sexual assault or sexual harassment. A determination made by the VA that a Veteran’s mental health condition ... including sexual assault or sexual harassment is connected to military service, while not binding on the DOD is persuasive evidence that the experience occurred during military service.”⁵

On the Federal level, the VA has taken significant steps to look at the underlying problems of STSD, TBI and MST on discharge characterizations. The 2018 Honor Our Commitment Act mandated the VA to provide mental health care to veterans with service-connected trauma or military sexual trauma, regardless of their discharge status. And in 2020, the Discharge Appeal Review Board was created to provide a final opportunity for veterans to appeal their discharge characterization at the Department of Defense level.⁶

We hope that SB 491 will offer significant help to MD veterans like the help offered by the Federal efforts described above. Additionally, if this legislation is enacted, Maryland will

⁵ Under Secretary of Defense Memorandum, 25 August 2017, subject: Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment, found at <https://www.secnav.navy.mil/mra/bcnr/Pages/Resources.aspx>

⁶ Supra, note 3.

have legislation similar to the New York State Restoration of Honor Act (2019). This law authorizes the New York State Department of Veterans' Services (DVS) to restore state Veterans benefits to Veterans who have a less than honorable discharge due to PTSD, TBI, MST, or Sexual Orientation, Gender Identity or Gender Expression. While the law does not change a Veteran's official federally issued character of discharge, if the Veteran receives a favorable determination and their service is considered honorable for the purpose of receiving New York State Veterans Benefits, DVS will provide the Veteran an award letter with a list of New York State Veterans benefits for which the Veteran is now eligible.⁷

We believe that SB 491 is a significant step to honor and help those who served and sacrificed for our Nation but have been denied benefits they earned and deserved because of unfairly characterized discharges.

We respectfully ask that you give a favorable report to SB 491.

Thank you.

Robert M. Doyle, Co-Chair
Maryland Federation – NARFE
State Legislative Committee
4226 Carvel Lane
Edgewater, MD 21037
bdoyle47@verizon.net
H (410) 798-0079
C/Text (301) 693-1774

⁷ Restoration of Honor Act Fact Sheet – New York State Department of Veterans Services, found at <https://veterans.ny.gov/documents/2024/07>