

An Act

SENATE BILL 21-026

BY SENATOR(S) Moreno, Bridges, Buckner, Coleman, Danielson, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Pettersen, Rodriguez, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Ortiz, Amabile, Arndt, Bacon, Bennett, Bird, Caraveo, Cutter, Daugherty, Duran, Esgar, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Kennedy, Kipp, Lontine, McCormick, McLachlan, Michaelson Jenet, Ricks, Roberts, Sirota, Snyder, Sullivan, Tipper, Valdez A., Valdez D., Weissman, Woodrow, Young.

CONCERNING THE ELIGIBILITY OF DISCHARGED LGBT VETERANS FOR SPECIFIED STATE BENEFITS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Restoration of Honor Act".

SECTION 2. In Colorado Revised Statutes, **add 28-5-103** as follows:

28-5-103. Discharged LGBT veteran. (1) (a) A PERSON IS A DISCHARGED LGBT VETERAN IF THE PERSON, AS DETERMINED BY THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

BOARD OF VETERANS AFFAIRS, WAS DISCHARGED FROM THE ARMED SERVICES DUE TO THE PERSON'S SEXUAL ORIENTATION OR GENDER IDENTITY OR GENDER EXPRESSION; OR STATEMENTS, CONSENSUAL SEXUAL CONDUCT, OR CONSENSUAL ACTS RELATING TO SEXUAL ORIENTATION OR GENDER IDENTITY OR GENDER EXPRESSION UNLESS THE STATEMENTS, CONDUCT, OR ACTS ARE PROHIBITED BY THE UNIFORM CODE OF MILITARY JUSTICE ON GROUNDS OTHER THAN THE PERSON'S SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION; OR THE DISCLOSURE OF STATEMENTS, CONDUCT, OR ACTS RELATING TO SEXUAL ORIENTATION OR GENDER IDENTITY OR GENDER EXPRESSION THAT WERE PROHIBITED BY THE ARMED SERVICES AT THE TIME OF DISCHARGE.

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A PERSON WHO RECEIVED A DISHONORABLE DISCHARGE, BAD CONDUCT DISCHARGE, OR, IF THE PERSON WAS AN OFFICER, A DISMISSAL FROM THE ARMED SERVICES IS NOT ELIGIBLE TO BE A DISCHARGED LGBT VETERAN.

(2) UPON APPLICATION, AND IN ACCORDANCE WITH THE PROCESS ESTABLISHED BY THE DIVISION OF VETERANS AFFAIRS PURSUANT TO THIS SECTION, THE BOARD OF VETERANS AFFAIRS SHALL DETERMINE WHETHER A PERSON IS A DISCHARGED LGBT VETERAN.

(3) (a) THE DIVISION OF VETERANS AFFAIRS SHALL ESTABLISH A CONSISTENT AND UNIFORM PROCESS TO DETERMINE WHETHER A PERSON IS A DISCHARGED LGBT VETERAN, INCLUDING, AT A MINIMUM, STANDARDS FOR VERIFYING THE PERSON'S STATUS AS A DISCHARGED LGBT VETERAN.

(b) (I) THE PROCESS MUST REQUIRE A PERSON APPLYING FOR CLASSIFICATION AS A DISCHARGED LGBT VETERAN TO SUBMIT A COPY OF THE PERSON'S DD214 FORM ISSUED BY THE UNITED STATES GOVERNMENT, A PERSONAL AFFIDAVIT OF THE CIRCUMSTANCES SURROUNDING THE DISCHARGE, AND ANY RELEVANT RECORDS PERTAINING TO THE DISCHARGE.

(II) A PERSON WHO DOES NOT HAVE THE DOCUMENTS DESCRIBED IN SUBSECTION (3)(b)(I) OF THIS SECTION IS NOT AUTOMATICALLY DISQUALIFIED FROM BEING CLASSIFIED AS A DISCHARGED LGBT VETERAN. IF THE PERSON DOES NOT HAVE THE DOCUMENTS, THE PERSON MUST SUBMIT AN AFFIDAVIT CERTIFYING THAT THE PERSON DOES NOT HAVE THE DOCUMENTS.

(c) THE DIVISION OF VETERANS AFFAIRS SHALL ESTABLISH A METHOD FOR A PERSON DETERMINED BY THE BOARD OF VETERANS AFFAIRS TO BE A DISCHARGED LGBT VETERAN TO DEMONSTRATE STATUS AS A DISCHARGED LGBT VETERAN.

SECTION 3. In Colorado Revised Statutes, **amend** 28-5-100.3 as follows:

28-5-100.3. Definitions. As used in this ~~article~~ ARTICLE 5, unless the context otherwise requires:

(1) "DISCHARGED LGBT VETERAN" MEANS A PERSON WHO THE STATE BOARD OF VETERANS AFFAIRS DETERMINES TO BE A DISCHARGED LGBT VETERAN PURSUANT TO SECTION 28-5-103.

(+)(2) "Veteran" means a person who served in the active military, naval, or air service of the United States and who was discharged or released under conditions other than dishonorable, in accordance with U.S.C. title 38, as amended.

SECTION 4. In Colorado Revised Statutes, 28-5-703, **add** (5) as follows:

28-5-703. Rules - duties. (5) THE BOARD SHALL DETERMINE WHETHER A PERSON IS A DISCHARGED LGBT VETERAN PURSUANT TO SECTION 28-5-103.

SECTION 5. In Colorado Revised Statutes, 28-5-705, **add** (1)(i) as follows:

28-5-705. Duties. (1) The division, in accordance with its rules, shall perform the following duties and functions:

(i) ESTABLISH A CONSISTENT AND UNIFORM PROCESS TO DETERMINE WHETHER A VETERAN QUALIFIES AS A DISCHARGED LGBT VETERAN, AS DESCRIBED IN SECTION 28-5-103.

SECTION 6. In Colorado Revised Statutes, 22-32-132, **amend** (1) introductory portion, (2)(a), and (2)(b) as follows:

22-32-132. Diplomas - veterans. (1) Upon the request of an honorably discharged veteran OR A DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3, a board of education of a school district may award a diploma to the ~~honorably discharged~~ veteran if ~~he or she~~ THE VETERAN:

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, a board of education of a school district may award a diploma:

(a) Posthumously to an honorably discharged veteran OR DISCHARGED LGBT VETERAN, upon the request of an immediate family member or legal guardian of the ~~honorably discharged~~ veteran; or

(b) Even though an honorably discharged veteran OR DISCHARGED LGBT VETERAN has already successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5).

SECTION 7. In Colorado Revised Statutes, 23-3.3-901, **amend** (4)(d) as follows:

23-3.3-901. Teach Colorado grant initiative created - award of grants - legislative declaration. (4) In awarding grants through the teach Colorado grant initiative, the department shall give special consideration to scholarships that:

(d) Are designed to assist honorably discharged veterans AND DISCHARGED LGBT VETERANS, AS DEFINED IN SECTION 28-5-100.3, of the armed forces in entering the teaching profession; or

SECTION 8. In Colorado Revised Statutes, 23-7.4-203, **amend** (1) as follows:

23-7.4-203. Tuition classification of armed forces veterans. (1) (a) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado shall adopt a policy that grants in-state tuition status to an honorably discharged member of the armed forces of the United States AND A DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3,

who enrolls in the state institution of higher education and who meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

(b) Notwithstanding any provision of this article 7.4 or article 7 of this title 23 to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado may adopt a policy that grants in-state tuition status to a dependent of an honorably discharged member of the armed forces of the United States OR A DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3, who enrolls in the state institution of higher education if the honorably discharged member of the armed forces OR DISCHARGED LGBT VETERAN meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

SECTION 9. In Colorado Revised Statutes, 26-12-205, amend (3)(b) as follows:

26-12-205. Homelake military veterans cemetery - definitions - fund - rules. (3) (b) Burial and interment may be provided at the cemetery for any spouse, surviving spouse, or dependent parent of an honorably discharged veteran OR DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3, of any branch of the armed forces of the United States.

SECTION 10. In Colorado Revised Statutes, 28-5-502, amend (1) introductory portion as follows:

28-5-502. Interment of deceased veterans. (1) It is the duty of the county commissioners in each county of this state to designate some proper person in each county whose duty it is to cause the decent interment of the bodies of honorably discharged military personnel AND DISCHARGED LGBT VETERANS:

SECTION 11. In Colorado Revised Statutes, amend 28-5-505 as follows:

28-5-505. Cemetery subdivision - state may acquire and maintain. The state has authority to acquire, establish, maintain, and improve in any cemetery in the state a suitable subdivision to be used as a

burial place for honorably discharged veterans AND DISCHARGED LGBT VETERANS. Such subdivision ~~shall~~ MUST consist of lots, each of sufficient area to accommodate at least eight interments of deceased veterans. No charge shall be made for burial space in such subdivision.

SECTION 12. In Colorado Revised Statutes, 28-5-802, **amend** (1) as follows:

28-5-802. Qualifications - term of office. (1) The county veterans service officer or assistant at the time of appointment ~~shall~~ MUST be a resident of the state, ~~shall~~ have served in the United States Army, Air Force, Navy, Marine Corps, or Coast Guard, or any auxiliary branch thereof and ~~shall~~ have been honorably discharged therefrom OR BE A DISCHARGED LGBT VETERAN, or ~~shall~~ be an officer released from active duty with the armed forces and placed on inactive duty therein. Before such appointments ~~shall be~~ ARE made, the board of county commissioners making ~~such~~ THE appointments ~~shall have sought~~ MUST SEEK the advice and counsel of the chief officer of each post of the regularly established and existing veterans organizations of the county wherein ~~such~~ THE officer or assistant is to serve as to the qualifications and experience of the applicant for ~~such~~ THE position. ~~Such~~ THE appointee ~~shall~~ MUST be well-qualified based on ~~his or her~~ THE APPOINTEE'S education and experience to perform the duties of county veterans service officer. The division shall recommend education and experience qualifications for the position of county veterans service officer.

SECTION 13. In Colorado Revised Statutes, **amend** 31-30-210 as follows:

31-30-210. Qualifications - notice of examination. Applicants for appointment ~~shall~~ MUST be citizens of the United States and reside in the city and county of such municipality for one year next preceding the date of their application. All examinations ~~shall~~ MUST be impartial and only relate to the fitness of such persons examined for the service they wish to enter. ~~No question shall~~ QUESTIONS MUST NOT relate to political or religious affiliation, and ~~no appointment shall~~ AN APPOINTMENT MUST NOT be affected in any manner by ~~such~~ political or religious affiliation. Notice of time, place, and scope of such examination ~~shall~~ MUST be given in ~~said~~ THE notice published in said paper. ~~No person shall be certified to appointment~~ A PERSON whose standing ~~shall be~~ IS less than sixty-five percent of

complete proficiency MAY NOT BE CERTIFIED TO APPOINTMENT. Preference shall MUST be given to persons honorably discharged from the naval or military service of the United States AND TO DISCHARGED LGBT VETERANS, AS DEFINED IN SECTION 28-5-100.3, and whose qualifications are otherwise equal.

SECTION 14. In Colorado Revised Statutes, 31-31-410, **amend** (2)(b) as follows:

31-31-410. Purchased or rolled-over service credit. (2) A member may purchase up to five years of service credit for periods of active duty in the uniformed services of the United States, subject to all of the following conditions:

(b) The member provides documentation of the dates of service in the uniformed services of the United States and that the member was honorably discharged from such service OR IS A DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3;

SECTION 15. In Colorado Revised Statutes, 33-6-107, **amend** (8)(c) as follows:

33-6-107. Licensing violations - penalties - rule. (8) (c) The commission shall promulgate a rule allowing veterans, including active-duty, reserve-duty, or national guard personnel, to obtain a hunter education certificate without attending a hunter education course if the veteran successfully passes a test-out option as developed by the commission. To qualify, a veteran must be discharged under honorable conditions OR BE A DISCHARGED LGBT VETERAN, AS DEFINED IN SECTION 28-5-100.3.

SECTION 16. In Colorado Revised Statutes, 42-1-102, **add** (24.3) as follows:

42-1-102. Definitions. As used in articles 1 to 4 of this title 42, unless the context otherwise requires:

(24.3) "DISCHARGED LGBT VETERAN" HAS THE SAME MEANING AS SET FORTH IN SECTION 28-5-100.3.

SECTION 17. In Colorado Revised Statutes, 42-3-213, amend (1)(a)(VII), (1)(a)(XI), (1)(a)(XII), (1)(a)(XV), (1)(a)(XVI), (1)(a)(XVII), (1)(a)(XXV), (1)(a)(XXVIII), (1)(a)(XXIX), (1)(a)(XXX), (6)(b)(III), (8)(b), (12)(a), (12)(b), (12)(c), (13)(b), (16)(b), (16)(c), (17)(b), (18)(b) introductory portion, (18)(b)(I), (26)(b), (29)(b), (30)(b), and (31)(b); and add (1)(a.5) as follows:

42-3-213. License plates - military veterans - rules - retirement.

(1) (a) The department shall issue one or more sets of license plates to the following persons who own a truck that does not exceed sixteen thousand pounds empty weight, a passenger car, a motorcycle, or a noncommercial or recreational vehicle:

(VII) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the United States Marine Corps;

(XI) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the United States Army;

(XII) ~~Effective July 1, 2006;~~ An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the United States Navy;

(XV) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, auxiliary, or active member of the United States Coast Guard;

(XVI) A serving member or honorably discharged OR DISCHARGED LGBT VETERAN or retired member of any component of the United States Air Force;

(XVII) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the special forces of the United States armed forces;

(XXV) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the Navy SEALs;

(XXVIII) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the 10th mountain

division of the United States Army;

(XXIX) An honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of a submarine crew of the United States Navy; or

(XXX) An honorably discharged OR DISCHARGED LGBT VETERAN or retired woman veteran of the United States armed forces.

(a.5) BEFORE ISSUING A LICENSE PLATE TO A DISCHARGED LGBT VETERAN PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL REQUIRE THE APPLICANT TO DEMONSTRATE STATUS AS A DISCHARGED LGBT VETERAN IN THE MANNER PRESCRIBED BY THE DIVISION OF VETERANS AFFAIRS PURSUANT TO SECTION 28-5-103 (3)(c).

(6) **Survivors of the attack on Pearl Harbor.** (b) Any natural person may use a survivors of the attack on Pearl Harbor special license plate if such person:

(III) Received an honorable discharge from the United States armed forces OR IS A DISCHARGED LGBT VETERAN; and

(8) **Honorably discharged, discharged LGBT, or retired veteran, or active member of the U.S. Marine Corps.** (b) A natural person who has received an honorable discharge OR IS A DISCHARGED LGBT VETERAN, is retired, or is an active or reserve member of the United States Marine Corps may use a United States Marine Corps special license plate. When applying for such a license plate, an applicant shall submit proof of an honorable discharge OR STATUS AS AN LGBT VETERAN or proof that the applicant is currently an active or reserve member of the United States Marine Corps.

(12) **Honorably discharged, discharged LGBT, or retired veteran, reserve, or active member of the United States Army.** (a) The United States Army special license plate shall be designed to indicate that the owner of the motor vehicle to which such license plate is attached is an honorably discharged OR DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the United States Army.

(b) A natural person may use a United States Army special license

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