A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

A person may have been discharged other than honorably from the United States military due to the person's sexual orientation or gender identity or expression; statements, consensual sexual conduct, or consensual acts relating to sexual orientation or gender identity or expression; or the disclosure of statements, conduct, or acts that were prohibited by the armed services at the time of discharge. Because of the
person's discharge status as other than honorable, the person does not qualify for certain Colorado state programs or benefits.

The bill establishes a "discharged LGBT veteran" status for the purposes of Colorado law. A person discharged for the reasons described above is eligible to be a discharged LGBT veteran. A person who received a dishonorable discharge from the United States military is not eligible to qualify as a discharged LGBT veteran.

Pursuant to a process established by the division of veterans affairs, the board of veterans affairs determines whether a person qualifies as a discharged LGBT veteran. This determination does not change the veteran's official character of discharge on the veteran's discharge paperwork, nor does it affect a person's eligibility for federal veterans programs or benefits.

The bill amends various existing state programs and benefits to make a discharged LGBT veteran eligible for those programs and 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 board of veterans affairs, was discharged other than honorably from the armed services due to the person's sexual orientation or gender identity or expression; or statements, consensual sexual conduct, or consensual acts relating to sexual orientation or gender identity or expression; or the disclosure of statements, conduct, or acts that were prohibited by the armed services at the time of discharge.

(b) A person who was dishonorably discharged 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, 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.

(4) (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
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 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.

(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.

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 plate if such person is an honorably discharged or DISCHARGED LGBT VETERAN, OR A retired, reserve, or active member of the United States Army.

(c) The department or an authorized agent shall not issue an United States Army special license plate to an applicant until the applicant provides a DD214 form issued by the United States government or other evidence sufficient to demonstrate that the applicant is an honorably discharged, DISCHARGED LGBT VETERAN, retired, reserve, or active member of the United States Army.

(13) **Honorably discharged, discharged LGBT, or retired veteran, or active member of the United States Navy.** (b) A natural person who has received an honorable discharge, IS A DISCHARGED LGBT VETERAN, is retired, or is an active or reserve member of the United States Navy shall be authorized to MAY use a United States Navy special license plate. When applying for such a license plate, an applicant shall submit a DD214 form issued by the United States government or other evidence sufficient to demonstrate that the applicant has an honorable discharge, PROOF OF THE APPLICANT'S STATUS AS A DISCHARGED LGBT VETERAN, or proof that the applicant is currently an active or reserve member of the United States Navy.

(16) **Honorably discharged, discharged LGBT veteran, retired veteran, auxiliary, or active member of the United States Coast**
Guard. (b) On or after January 1, 2008, a natural person who has received an honorable discharge, **IS A DISCHARGED LGBT VETERAN**, is retired, or is an active, auxiliary, or reserve member of the United States Coast Guard shall be authorized to **MAY use** a United States Coast Guard special license plate.

(c) When applying for such a license plate, an applicant shall submit a DD214 form issued by the United States government or other evidence sufficient to demonstrate that the applicant has an honorable discharge, **PROOF OF THE APPLICANT'S STATUS AS A DISCHARGED LGBT VETERAN**, or proof that the applicant is currently an active, auxiliary, or reserve member of the United States Coast Guard.

(17) **Honorably discharged, discharged LGBT veteran, retired veteran, or active member of the United States Air Force.** (b) A natural person who has received an honorable discharge, **IS A DISCHARGED LGBT VETERAN**, is retired, or is an active or reserve member of any component of the United States Air Force shall be authorized to **MAY use** a United States Air Force special license plate.

(18) **Honorably discharged, discharged LGBT, or retired veteran, or active member of the United States Army special forces.** (b) Beginning January 1, 2008, a natural person who has received an honorable discharge, **IS A DISCHARGED LGBT VETERAN**, or is an active or reserve member of the United States Army special forces may use a United States Army special forces license plate. When applying for such a license plate, an applicant shall submit:

(I) **Proof of an honorable discharge or retirement, PROOF OF STATUS AS A DISCHARGED LGBT VETERAN**, or proof that the applicant is currently an active or reserve member of the United States Army special
forces;

(26) **Honorably discharged, retired veteran, or active member of the Navy SEALs.** (b) A natural person who has received an honorable discharge, is a DISCHARGED LGBT VETERAN, is retired, or is an active or reserve member of the United States Navy SEALs may use a United States Navy SEALs license plate. To qualify for the license plate, an applicant must submit a DD214 form issued by the United States government and a certification from the UDT/SEAL association, inc., the Rocky Mountain chapter of the UDT/SEAL association, inc., or a successor organization that the applicant has an honorable discharge from, is retired from, or is currently an active or reserve member of the Navy SEALs.

(29) **Veteran, reserve member, or active member of the 10th mountain division of the United States Army.** (b) A natural person who meets the conditions established in subparagraph (XXVIII) of paragraph (a) of subsection (1) of this section may use a "10th mountain division" license plate. To qualify for the license plate, an applicant must submit a DD214 form issued by the United States government or other evidence sufficient to demonstrate that the applicant is a veteran, a DISCHARGED LGBT VETERAN, a reserve member, or an active member of the 10th mountain division of the United States Army.

(30) **Honorably discharged, retired veteran, or reserve or active member of the United States Navy submarine service.** (b) A natural person who has received an honorable discharge from, is a DISCHARGED LGBT VETERAN OF, is retired from, or is an active or reserve member of the submarine service may use a submarine service license
(31) **Honorably discharged, discharged LGBT veteran, or retired woman veteran of the United States armed forces.** (b) A woman who has received an honorable discharge from, is a discharged LGBT veteran of, or is retired from the United States armed forces is authorized to use a United States woman veteran license plate. When applying for the license plate, an applicant must submit a DD214 form issued by the United States government or other evidence sufficient to demonstrate that the applicant is a woman and has an honorable discharge from, or is retired from, the United States armed forces. **An applicant who is a discharged LGBT veteran must submit a DD214 form and demonstrate status as a discharged LGBT veteran.**

**SECTION 18. Act subject to petition - effective date.** This act takes effect November 11, 2021; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.