
OLR Bill Analysis

HB 5592

AN ACT REDEFINING "VETERAN" AND ESTABLISHING A QUALIFIED CONDITION REVIEW BOARD.

SUMMARY

This bill expands the general definition of “veteran” under state law to include those released with an other than honorable (OTH) discharge based on specified qualifying conditions and applies this new definition across veterans benefit programs. In doing so, it extends state-based benefits to certain veterans who are currently ineligible.

Under current law, a “veteran” is any person honorably discharged, or released under honorable conditions, from active service in the U.S. Armed Forces. Current law also extends specified benefits to veterans with an OTH discharge and a qualifying condition (i.e., a diagnosis of post-traumatic stress disorder (PTSD) or traumatic brain injury or a disclosed military sexual trauma). The bill incorporates these existing qualifying conditions into the general definition of veteran and expands the list to also include a (1) a mental health condition that was more likely than not a contributing factor for the OTH discharge and (2) determination that sexual orientation, gender identity, or gender expression was more likely than not the sole reason for the OTH discharge.

For veterans who believe their OTH discharge is due to one of the new qualifying conditions, the bill establishes a process by which they may apply to a five-member Qualifying Condition Review Board to determine their eligibility. Veterans whose applications are approved through the review board process are eligible for state-based veterans benefits.

The bill also makes numerous conforming changes, including

changes to agency reporting requirements (§§ 2 & 45) and provisions requiring veterans to submit their discharge papers (or other qualifying documents) as proof of their eligibility for veteran's property tax exemptions (§§ 17 & 18).

EFFECTIVE DATE: October 1, 2021; the property tax-related provisions are applicable to assessment years beginning on or after October 1, 2021.

VETERANS BENEFITS AND PROGRAMS EXTENDED TO NEW CLASSES OF QUALIFYING CONDITIONS

Current state law generally defines a veteran in three ways. The general definition is anyone honorably discharged or released under honorable conditions from active duty in the armed forces. But for certain benefit programs, current law defines a veteran as anyone (1) with an OTH discharge and a qualifying condition (i.e., a diagnosis of PTSD or traumatic brain injury or a disclosed military sexual trauma) or (2) discharged or released under conditions other than dishonorable from active service in the armed forces (which mirrors the federal definition of veteran; in practice, it includes those with an honorable discharge or general discharge under honorable conditions).

The bill applies one definition across the various benefit programs. Under the bill, a "veteran" is anyone honorably discharged or released under honorable conditions from active duty in the armed forces or anyone with an OTH discharge based on the following qualifying conditions:

1. a PTSD or traumatic brain injury diagnosis by a licensed health care professional at a U.S. Department of Veterans Affairs (VA) facility;
2. a military sexual trauma experience disclosed to such a health care professional;
3. a mental health condition that the Qualified Condition Review Board determines was more likely than not a contributing factor for the OTH discharge (see below); and

4. a determination by the Qualified Condition Review Board that sexual orientation, gender identity, or gender expression was more likely than not the sole reason for the OTH discharge (see below) (see BACKGROUND).

The bill makes conforming changes throughout the veterans benefit programs and, in doing so, extends certain benefits to veterans who are currently not eligible. The following tables group these benefits according to the definition of veteran that currently applies. The bill's definition change also applies to other existing statutory provisions not listed in these tables that reference the general definition of veteran amended by the bill.

As under existing law, some of these benefits are limited to veterans with war time service and some are also available to eligible surviving parents, spouses, or minor children.

The bill extends the benefits under Table 1 to veterans with an OTH discharge that is based on one of the bill's two new qualifying conditions.

Table 1: Benefits Available to Veterans with an (1) Honorable Discharge, Released Under Honorable Conditions or (2) OTH Discharge and a Qualifying Condition Under Current Law

Bill §	Description
3	Price preference for certain Department of Administrative Services open market orders or contracts for veteran-owned micro-businesses (CGS § 4a-59)
4	Bonus points on state civil service examinations for original appointments (CGS § 5-224)
4	Special service credit for state employee retirement (CGS § 5-180)
4	Inclusion of time served in war in the length of state employment for veterans who were reinstated as state employees after returning from military service (CGS § 5-255)
6	Preference for certain state-funded moderate-income rental housing projects (CGS § 8-75)

7	Fee waiver for taking or retaking the examination for state high school diploma (CGS § 10-5)
8	Honorary high school diploma for veterans who withdrew from high school for military service in World War II, the Korean Hostilities, or during the Vietnam era (CGS § 10-221a)
9-11	Tuition waivers for the state's public colleges and universities (CGS §§ 10a-77, -99 & -105)
14	Basic veteran's property tax exemption (CGS § 12-81(19))
15	Property tax exemption for a veteran's surviving spouse or minor child (CGS § 12-81(22))
16	Property tax exemption for the sole surviving parent, spouse, or minor child of a veteran (CGS § 12-81(25))
20	Tax incentive to encourage certain veterans to start a farming business (CGS § 12-412(63))
21	Special veteran's license plates (CGS § 14-20b)
23	Veterans status on state driver's license or identity card (CGS § 14-36h)
24	Motor vehicle operator's license and registration fee waiver for one licensing period for qualifying veterans (CGS § 14-50)
25	Special license plates for qualifying disabled wartime veterans (CGS § 14-254)
26	Income disregard for federal Aid and Attendance pension benefits for purposes of specified means-tested public assistance programs (CGS § 17b-28i)
29	Admission to the Veterans Residential Services facility or Healthcare Center (CGS § 27-108)
30	Preference for admission into any hospital, upon the Veterans Affairs commissioner's request, at the state's expense unless other means of payment are available (CGS § 27-109)
31	\$1,800 toward funeral expenses or cremation for indigent veterans (CGS § 27-118)
33	Temporary financial assistance for qualifying wartime veterans at the commissioner's discretion (CGS § 27-125)
34	Temporary aid (such as food, clothing, and medical and surgical aid) from the Soldiers, Sailors and Marines Fund (CGS § 27-140)

36	Eligibility for specified employment and workforce development information from the Department of Labor (CGS § 31-3w)
38-39	Specified veterans' workforce development pilot programs in the workforce development board for the state's southwest region (CGS §§ 31-11ss & -11tt)

The bill extends the benefits under Table 2 to veterans who have an OTH discharge that is based on a qualifying condition under the bill or under existing law.

Table 2: Benefits Currently Available Only to Veterans with an Honorable Discharge or Released Under Honorable Conditions

Bill §	Description
13	Institutional aid for qualifying veterans without legal immigration status to attend a state public higher education institution (CGS § 10a-161d)
19	Qualifying employee for purposes of the job expansion tax credit program (which is obsolete) (CGS § 12-217pp)
32	Burial in state veterans' cemetery (CGS § 27-122b)
41	Credit for military service for retirement purposes for judges, family support magistrates, or compensation commissioners (CGS § 51-49h)

The bill expressly applies the benefits in Table 3 to veterans who were honorably discharged or discharged under honorable conditions and those with an OTH discharge that is based on a qualifying condition under the bill or existing law.

Table 3: Benefits Currently Available to Veterans with an Other than Dishonorable Discharge

Bill §	Description
5	Police officer certification for eligible veterans with qualifying military training (provided the applicant passes the examination or evaluation) (CGS § 7-294d)
12	College credit at the state's public higher education institutions for enrolled veterans with military occupational specialty training (CGS § 10a-149d)

22	Motor vehicle license examination waivers for qualifying veterans (CGS § 14-36)
27	Exemption from training and testing requirements for emergency medical technician (EMT) licensure and certification for veterans with appropriate military training (CGS § 19a-179)
28	Exemption from written or practical exemption for EMT certification for qualified veterans (CGS § 20-206mm)
35	Security guard training waiver (CGS § 29-161q)
37	Inclusion in the labor department's clearinghouse for veterans and armed forces members with specialized training (CGS § 31-3zz)
40	Eligibility for military training evaluation that waives all or part of an apprenticeship program's requirements (CGS § 31-22u)
42-44	Eligibility for certain pretrial diversionary programs (CGS §§ 54-56e, -56i, & -56l)

QUALIFIED CONDITION REVIEW BOARD

Purpose

The bill requires the Veterans Affairs commissioner, by October 1, 2021, to establish a Qualified Condition Review Board as an executive branch board. Under the bill, veterans who receive an OTH discharge and believe that it was (1) due to a mental health condition or (2) based on their sexual orientation or gender identity or expression, may apply to this board for a review and recommendation to the commissioner for state-based veterans benefits approval.

Composition

The board is composed of five voting members, all of whom must be knowledgeable of veterans benefits and programs and have a demonstrated interest in veterans issues. The Veterans Affairs commissioner appoints four members, one of whom must be a member of the Department of Veterans Affairs Board of Trustees appointed in consultation with the board's chairperson. The remaining member is the department's Office of Advocacy and Assistance manager, or his or her designee. At least three of the members must be veterans. Members are not compensated for their service.

Terms

The initial appointments must be made by December 1, 2021. The initial members serve staggered terms: the Board of Trustees member and Office of Advocacy and Assistance manager, or the manager's designee, serve three-year terms and the remaining members serve two-year terms. The initial terms end on November 31, 2023, or 2024, as applicable, regardless of when the members are first appointed.

Subsequently appointed members serve four-year terms. Members hold office until a successor is appointed and may be reappointed. The Veterans Affairs commissioner must fill any vacancy for the balance of a member's unexpired term.

Meetings and Procedures

The commissioner must select the board's chairperson from among its members, who must schedule the board's first meeting by January 1, 2022. The board must meet at least monthly or as often as the chairperson deems necessary based on the number of pending applications.

A majority of board members constitutes a quorum for transacting any of the board's business.

Application Review Process

Forms. The commissioner must prepare standardized application forms for veterans seeking to apply for state benefits or filing a request for reconsideration, as described below. The application forms must (1) list the required documents necessary for filing and (2) be available on the department's website, along with filing instructions.

Review. The board must review each application and make a recommendation to the commissioner as to whether (1) the veteran has a mental health condition that was more likely than not a contributing factor for the OTH discharge or (2) the veteran's sexual orientation or gender identity or expression was more likely than not the sole reason for the OTH discharge. In making its determination, the board must presume that the veteran meets these thresholds if:

1. the veteran presents evidence of a mental health condition diagnosis made by a licensed health care services provider at a VA facility or
2. the veteran's narrative reason for separation documented on the DD-214 form references his or her sexual orientation or gender identity or expression.

Timeline. The board must review each application within 30 days after receiving it and make its written recommendation within 30 days after its review. The commissioner then has up to 10 days after receiving the board's recommendation to issue his written decision to approve or deny the application.

Appeals. Any veteran aggrieved by the commissioner's decision may (1) file a request for reconsideration with the commissioner within 15 days after receiving the decision and (2) include additional documents in support of his or her request. No later than 10 days after receiving the request, the commissioner must consider it and issue the department's final decision. A person aggrieved by the final decision may appeal under the Uniform Administrative Procedure Act (UAPA). (Generally, under the UAPA, aggrieved parties have 45 days to appeal final agency decisions to the Superior Court.)

BACKGROUND

Veterans Discharged Under "Don't Ask, Don't Tell"

Regardless of their discharge classification, veterans who were or would have been denied federal benefits solely based on their sexual orientation under any federal policy prohibiting homosexual personnel from serving in the military (e.g., "Don't Ask, Don't Tell") are eligible for state benefits if their federal benefits have been restored (CGS § 27-102q).

COMMITTEE ACTION

Veterans' Affairs Committee

Joint Favorable
Yea 17 Nay 0 (03/18/2021)

