

116TH CONGRESS
1ST SESSION

H. R. 3517

To direct the Secretary of Defense to review the discharge characterization of former members of the Armed Forces who were discharged by reason of the sexual orientation of the member, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2019

Mr. POCAN (for himself, Ms. HILL of California, Mr. BEYER, Mr. PAPPAS, Ms. LEE of California, Ms. KELLY of Illinois, Mr. DEUTCH, Ms. TITUS, Ms. MCCOLLUM, Mr. GRIJALVA, Mr. TONKO, Mrs. MURPHY, Mr. PALONE, Mr. COHEN, Mr. AGUILAR, Ms. BROWNLEY of California, Mr. HIMES, Mr. LOWENTHAL, Ms. SCANLON, Mr. PETERS, Mrs. WATSON COLEMAN, Mr. CÁRDENAS, Ms. SCHAKOWSKY, Mr. WELCH, Mr. SOTO, Mr. MCGOVERN, Mr. CICILLINE, Mr. SCHNEIDER, Ms. MOORE, Ms. DELBENE, Mr. YARMUTH, Ms. FRANKEL, Mr. HIGGINS of New York, Mr. PANETTA, Mr. LYNCH, Mr. RUSH, Miss RICE of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. SERRANO, Mr. GALLEGU, Ms. NORTON, Ms. MENG, Mr. KIND, Mr. DESAULNIER, Mr. KILMER, Mr. SWALWELL of California, Mr. PERLMUTTER, Ms. HAALAND, Ms. BLUNT ROCHESTER, Mr. RYAN, Mr. LIPINSKI, Ms. WASSERMAN SCHULTZ, Mr. KHANNA, Ms. CLARK of Massachusetts, Mr. KENNEDY, Mrs. CAROLYN B. MALONEY of New York, Ms. ESHOO, Mr. RASKIN, Mrs. NAPOLITANO, Mr. TAKANO, Ms. SÁNCHEZ, Mr. FOSTER, Ms. BONAMICI, Mr. LAWSON of Florida, Mr. BLUMENAUER, Mr. SCHRADER, Mr. BROWN of Maryland, Mr. GARCÍA of Illinois, Mr. MOULTON, Mr. CASE, Mr. HECK, Ms. JACKSON LEE, Mrs. BEATTY, Mr. MORELLE, Ms. ROYBAL-ALLARD, Mr. SCHIFF, Ms. WILD, Mr. ESPAILLAT, Mr. HUFFMAN, Mr. KILDEE, Mr. COX of California, Ms. OMAR, Ms. STEVENS, Mr. CRIST, Ms. ESCOBAR, Mr. VEASEY, Ms. BASS, Ms. PORTER, Mr. LANGEVIN, Ms. PRESSLEY, Mr. CONNOLLY, Ms. LOFGREN, Mr. ROSE of New York, Ms. CASTOR of Florida, Ms. SHERRILL, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. SLOTKIN, Mr. SARBANES, Mrs. TORRES of California, Mr. STANTON, and Ms. TORRES SMALL of New Mexico) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Defense to review the discharge characterization of former members of the Armed Forces who were discharged by reason of the sexual orientation of the member, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restore Honor to Serv-
 5 ice Members Act”.

6 **SEC. 2. REVIEW OF DISCHARGE CHARACTERIZATION.**

7 (a) IN GENERAL.—In accordance with this section,
 8 the appropriate discharge boards—

9 (1) shall review the discharge characterization
 10 of covered members at the request of the covered
 11 member; and

12 (2) if such characterization is any characteriza-
 13 tion except honorable, may change such character-
 14 ization to honorable.

15 (b) CRITERIA.—In changing the discharge character-
 16 ization of a covered member to honorable under subsection
 17 (a)(2), the Secretary of Defense shall ensure that such
 18 changes are carried out consistently and uniformly across
 19 the military departments using the following criteria:

20 (1) The original discharge must be based on
 21 Don’t Ask Don’t Tell (in this Act referred to as

1 “DADT”) or a similar policy in place prior to the
2 enactment of DADT.

3 (2) Such discharge characterization shall be so
4 changed if, with respect to the original discharge,
5 there were no aggravating circumstances, such as
6 misconduct, that would have independently led to a
7 discharge characterization that was any character-
8 ization except honorable. For purposes of this para-
9 graph, such aggravating circumstances may not in-
10 clude—

11 (A) an offense under section 925 of title
12 10, United States Code (article 125 of the Uni-
13 form Code of Military Justice), committed by a
14 covered member against a person of the same
15 sex with the consent of such person; or

16 (B) statements, consensual sexual conduct,
17 or consensual acts relating to sexual orientation
18 or identity, or the disclosure of such state-
19 ments, conduct, or acts, that were prohibited at
20 the time of discharge but after the date of such
21 discharge became permitted.

22 (3) When requesting a review, a covered mem-
23 ber, or the member’s representative, shall be re-
24 quired to provide either—

25 (A) documents consisting of—

1 (i) a copy of the DD-214 form of the
2 member;

3 (ii) a personal affidavit of the cir-
4 cumstances surrounding the discharge; and

5 (iii) any relevant records pertaining to
6 the discharge; or

7 (B) an affidavit certifying that the mem-
8 ber, or the member's representative, does not
9 have the documents specified in subparagraph
10 (A).

11 (4) If a covered member provides an affidavit
12 described in subparagraph (B) of paragraph (3)—

13 (A) the appropriate discharge board shall
14 make every effort to locate the documents speci-
15 fied in subparagraph (A) of such paragraph
16 within the records of the Department of De-
17 fense; and

18 (B) the absence of such documents may
19 not be considered a reason to deny a change of
20 the discharge characterization under subsection
21 (a)(2).

22 (c) REQUEST FOR REVIEW.—The appropriate dis-
23 charge board shall ensure the mechanism by which covered
24 members, or their representative, may request to have the

1 discharge characterization of the covered member reviewed
2 under this section is simple and straightforward.

3 (d) REVIEW.—

4 (1) IN GENERAL.—After a request has been
5 made under subsection (c), the appropriate dis-
6 charge board shall review all relevant laws, records
7 of oral testimony previously taken, service records,
8 or any other relevant information regarding the dis-
9 charge characterization of the covered member.

10 (2) ADDITIONAL MATERIALS.—If additional
11 materials are necessary for the review, the appro-
12 priate discharge board—

13 (A) may request additional information
14 from the covered member or the member's rep-
15 resentative, in writing, and specifically detailing
16 what is being requested; and

17 (B) shall be responsible for obtaining a
18 copy of the necessary files of the covered mem-
19 ber from the member, or when applicable, from
20 the Department of Defense.

21 (e) CHANGE OF CHARACTERIZATION.—The appro-
22 priate discharge board shall change the discharge charac-
23 terization of a covered member to honorable if such change
24 is determined to be appropriate after a review is conducted
25 under subsection (d) pursuant to the criteria under sub-

1 section (b). A covered member, or the member's represent-
2 ative, may appeal a decision by the appropriate discharge
3 board to not change the discharge characterization by
4 using the regular appeals process of the board.

5 (f) CHANGE OF RECORDS.—For each covered mem-
6 ber whose discharge characterization is changed under
7 subsection (e), or for each covered member who was hon-
8 orably discharged but whose DD-214 form reflects the
9 sexual orientation of the member, the Secretary of Defense
10 shall reissue to the member or the member's representa-
11 tive a revised DD-214 form that reflects the following:

12 (1) For each covered member discharged, the
13 Separation Code, Reentry Code, Narrative Code, and
14 Separation Authority shall not reflect the sexual ori-
15 entation of the member and shall be placed under
16 secretarial authority. Any other similar indication of
17 the sexual orientation or reason for discharge shall
18 be removed or changed accordingly to be consistent
19 with this paragraph.

20 (2) For each covered member whose discharge
21 occurred prior to the creation of general secretarial
22 authority, the sections of the DD-214 form referred
23 to paragraph (1) shall be changed to similarly reflect
24 a universal authority with codes, authorities, and
25 language applicable at the time of discharge.

1 (g) STATUS.—

2 (1) IN GENERAL.—Each covered member whose
3 discharge characterization is changed under sub-
4 section (e) shall be treated without regard to the
5 original discharge characterization of the member,
6 including for purposes of—

7 (A) benefits provided by the Federal Gov-
8 ernment to an individual by reason of service in
9 the Armed Forces; and

10 (B) all recognitions and honors that the
11 Secretary of Defense provides to members of
12 the Armed Forces.

13 (2) REINSTATEMENT.—In carrying out para-
14 graph (1)(B), the Secretary shall reinstate all rec-
15 ognitions and honors of a covered member whose
16 discharge characterization is changed under sub-
17 section (e) that the Secretary withheld because of
18 the original discharge characterization of the mem-
19 ber.

20 (3) EFFECTIVE DATE OF CHANGE OF CHARAC-
21 TERIZATION FOR VETERANS BENEFITS.—For pur-
22 poses of the provision of benefits to which veterans
23 are entitled under the laws administered by the Sec-
24 retary of Veterans Affairs to a covered member
25 whose discharge characterization is changed under

1 subsection (e), the date of discharge of the member
2 from the Armed Forces shall be deemed to be the
3 effective date of the change of discharge character-
4 ization under that subsection.

5 (4) CONSTRUCTION.—Nothing in this sub-
6 section shall be construed to authorize any benefit to
7 a covered member in connection with the change of
8 discharge characterization of the member under sub-
9 section (e) for any period before the effective date of
10 the change of discharge characterization.

11 (h) DEFINITIONS.—In this section:

12 (1) The term “appropriate discharge board”
13 means the boards for correction of military records
14 under section 1552 of title 10, United States Code,
15 or the discharge review boards under section 1553
16 of such title, as the case may be.

17 (2) The term “covered member” means any
18 former member of the Armed Forces who was dis-
19 charged from the Armed Forces because of the sex-
20 ual orientation of the member.

21 (3) The term “discharge characterization”
22 means the characterization under which a member
23 of the Armed Forces is discharged or released, in-
24 cluding “dishonorable”, “general”, “other than hon-
25 orable”, and “honorable”.

1 (4) The term “Don’t Ask Don’t Tell” means
2 section 654 of title 10, United States Code, as in ef-
3 fect before such section was repealed pursuant to the
4 Don’t Ask, Don’t Tell Repeal Act of 2010 (Public
5 Law 111–321).

6 (5) The term “representative” means the sur-
7 viving spouse, next of kin, or legal representative of
8 a covered member.

9 **SEC. 3. TIGER TEAM FOR OUTREACH TO FORMER MEM-**
10 **BERS.**

11 (a) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that—

13 (1) the mission of the Department of Defense
14 is to provide the military forces needed to deter war
15 and to protect the security of the United States;

16 (2) expanding outreach to veterans impacted by
17 DADT or a similar policy prior to the enactment of
18 DADT is important to closing a period of history
19 harmful to the creed of integrity, respect, and honor
20 of the military;

21 (3) the Department is responsible for providing
22 for the review of a veteran’s military record before
23 the appropriate discharge review board or, when
24 more than 15 years has passed, board of correction
25 for military or naval records; and

1 (4) the Secretary of Defense should, wherever
2 possible, coordinate and conduct outreach to im-
3 pacted veterans through the veterans community
4 and networks, including through the Department of
5 Veterans Affairs and veterans service organizations,
6 to ensure that veterans understand the review proc-
7 esses that are available to them for upgrading mili-
8 tary records.

9 (b) TIGER TEAM.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of the enactment of this Act, the Secretary
12 of Defense shall establish a team (commonly known
13 as a “tiger team” and referred to in this section as
14 the “Tiger Team”) responsible for conducting out-
15 reach to build awareness among former members of
16 the Armed Forces of the process established pursu-
17 ant to section 2 for the review of discharge charac-
18 terizations by appropriate discharge boards. The
19 Tiger Team shall consist of appropriate personnel of
20 the Department of Defense assigned to the Tiger
21 Team by the Secretary for purposes of this section.

22 (2) TIGER TEAM LEADER.—One of the persons
23 assigned to the Tiger Team under paragraph (1)
24 shall be a senior-level officer or employee of the De-
25 partment who shall serve as the lead official of the

1 Tiger Team (in this section referred to as the “Tiger
2 Team Leader”) and who shall be accountable for the
3 activities of the Tiger Team under this section.

4 (3) REPORT ON COMPOSITION.—Not later than
5 60 days after the date of the enactment of this Act,
6 the Secretary shall submit to Congress a report set-
7 ting forth the names of the personnel of the Depart-
8 ment assigned to the Tiger Team pursuant to this
9 subsection, including the positions to which assigned.
10 The report shall specify the name of the individual
11 assigned as Tiger Team Leader.

12 (c) DUTIES.—

13 (1) IN GENERAL.—The Tiger Team shall con-
14 duct outreach to build awareness among veterans of
15 the process established pursuant to section 2 for the
16 review of discharge characterizations by appropriate
17 discharge boards.

18 (2) COLLABORATION.—In conducting activities
19 under this subsection, the Tiger Team Leader shall
20 identify appropriate external stakeholders with
21 whom the Tiger Team shall work to carry out such
22 activities. Such stakeholders shall include the fol-
23 lowing:

24 (A) The Secretary of Veterans Affairs.

25 (B) The Archivist of the United States.

1 (C) Representatives of veterans service or-
2 ganizations.

3 (D) Such other stakeholders as the Tiger
4 Team Leader considers appropriate.

5 (3) INITIAL REPORT.—Not later than 180 days
6 after the date of the enactment of this Act, the Sec-
7 retary of Defense shall submit to Congress the fol-
8 lowing:

9 (A) A plan setting forth the following:

10 (i) A description of the manner in
11 which the Secretary, working through the
12 Tiger Team and in collaboration with ex-
13 ternal stakeholders described in paragraph
14 (2), shall identify individuals who meet the
15 criteria in section 2(b) for review of dis-
16 charge characterization.

17 (ii) A description of the manner in
18 which the Secretary, working through the
19 Tiger Team and in collaboration with the
20 external stakeholders, shall improve out-
21 reach to individuals who meet the criteria
22 in section 2(b) for review of discharge
23 characterization, including through—

24 (I) obtaining contact information
25 on such individuals; and

1 (II) contacting such individuals
2 on the process established pursuant to
3 section 2 for the review of discharge
4 characterizations.

5 (B) A description of the manner in which
6 the work described in clauses (i) and (ii) of sub-
7 paragraph (A) will be carried out, including an
8 allocation of the work among the Tiger Team
9 and the external stakeholders.

10 (C) A schedule for the implementation,
11 carrying out, and completion of the plan re-
12 quired under subparagraph (A).

13 (D) A description of the additional fund-
14 ing, personnel, or other resources of the De-
15 partment required to carry out the plan re-
16 quired under subparagraph (A), including any
17 modification of applicable statutory or adminis-
18 trative authorities.

19 (4) IMPLEMENTATION OF PLAN.—

20 (A) IN GENERAL.—The Secretary shall im-
21 plement and carry out the plan submitted under
22 subparagraph (A) of paragraph (3) in accord-
23 ance with the schedule submitted under sub-
24 paragraph (C) of that paragraph.

1 (B) UPDATES.—Not less frequently than
2 once every 90 days after the submittal of the
3 report under paragraph (3), the Tiger Team
4 shall submit to Congress an update on the car-
5 rying out of the plan submitted under subpara-
6 graph (A) of that paragraph.

7 (5) FINAL REPORT.—Not later than 3 years
8 after the date of the enactment of this Act, the
9 Tiger Team shall submit to the appropriate commit-
10 tees of Congress a final report on the activities of
11 the Tiger Team under this subsection. The report
12 shall set forth the following:

13 (A) The number of individuals discharged
14 under DADT or a similar policy prior to the en-
15 actment of DADT.

16 (B) The number of individuals described in
17 subparagraph (A) who availed themselves of a
18 review of discharge characterization (whether
19 through discharge review or correction of mili-
20 tary records) through a process established
21 prior to the enactment of this Act.

22 (C) The number of individuals contacted
23 through outreach conducted pursuant to this
24 section.

1 (D) The number of individuals described in
 2 subparagraph (A) who availed themselves of a
 3 review of discharge characterization through the
 4 process established pursuant to section 2.

5 (E) The number of individuals described in
 6 subparagraph (D) whose review of discharge
 7 characterization resulted in a change of charac-
 8 terization to honorable discharge.

9 (F) The total number of individuals de-
 10 scribed in subparagraph (A), including individ-
 11 uals also covered by subparagraph (E), whose
 12 review of discharge characterization since Sep-
 13 tember 20, 2011 (the date of repeal of DADT),
 14 resulted in a change of characterization to hon-
 15 orable discharge.

16 (6) APPROPRIATE COMMITTEES OF CONGRESS
 17 DEFINED.—In this subsection, the term “appro-
 18 priate committees of Congress” means—

19 (A) the Committee on Armed Services of
 20 the Senate; and

21 (B) the Committee on Armed Services of
 22 the House of Representatives.

23 (d) TERMINATION.—On the date that is 60 days after
 24 the date on which the final report required by paragraph

1 (5) is submitted, the Secretary shall terminate the Tiger
2 Team.

3 **SEC. 4. REPORTS.**

4 (a) REVIEW.—The Secretary of Defense shall con-
5 duct a review of the consistency and uniformity of the re-
6 views conducted under section 2.

7 (b) REPORTS.—Not later than 270 days after the
8 date of the enactment of this Act, and each year thereafter
9 for a four-year period, the Secretary shall submit to Con-
10 gress a report on the reviews under subsection (a). Such
11 reports shall include any comments or recommendations
12 for continued actions.

13 **SEC. 5. HISTORICAL REVIEW.**

14 The Secretary of each military department shall en-
15 sure that oral historians of the department—

16 (1) review the facts and circumstances sur-
17 rounding the estimated 100,000 members of the
18 Armed Forces discharged from the Armed Forces
19 between World War II and September 2011 because
20 of the sexual orientation of the member; and

21 (2) receive oral testimony of individuals who
22 personally experienced discrimination and discharge
23 because of the actual or perceived sexual orientation
24 of the individual so that such testimony may serve

- 1 as an official record of these discriminatory policies
- 2 and their impact on American lives.

