

BILL ANALYSIS

C.S.H.B. 4243
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Following the enactment of the "Don't Ask, Don't Tell" policy in 1994, approximately 13,000 service members were expelled from the military with a dishonorable discharge classification due to their sexual orientation. This classification prevents veterans from accessing crucial benefits such as access to medical care, the GI Bill, and military pensions, and some veterans may be unable to navigate the bureaucracy needed to appeal their dishonorable discharge following the repeal of the policy in 2011. There are calls for legislative action to automatically grant Texas veterans affected by the policy an honorable discharge classification and the reinstatement of benefits they earned for their service. C.S.H.B. 4243 seeks to resolve this issue by recognizing persons who separated from military service solely on the basis of sexual orientation as honorably discharged veterans and by entitling such a person to the benefits, rights, privileges, and immunities provided by the state or under state law to an honorably discharged veteran.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4243 amends the Government Code to establish that the State of Texas recognizes a person as having been honorably discharged from active military service under the following conditions:

- according to the person's military discharge record, the person was dishonorably discharged, or resigned, retired, or otherwise separated from active military service on the basis of the person's sexual orientation; and
- based on any previous characterization of service, the person would have otherwise received a more favorable character of discharge.

A person is considered to have been dishonorably discharged or to have resigned, retired, or otherwise separated from active military service on the basis of the person's sexual orientation if any of the separation codes specified by the bill appear on the person's DD Form 214 and represent a ground on which the person was released or discharged, or if any other ground for release or discharge from active military service based on sexual orientation, including a predecessor or successor to one of the specified separation codes, appears on the person's military discharge record.

C.S.H.B. 4243 entitles a person recognized as having been honorably discharged under the bill's provisions to all benefits, rights, privileges, and immunities provided by the state or under state law to an honorably discharged veteran. The bill requires a state agency or officer to accept a copy of a person's DD Form 214 identified or commonly known as "Service 2 Copy" or "Member 4 Copy" for purposes of the bill's provisions.

C.S.H.B. 4243 defines "DD Form 214," "military discharge record," and "separation code" and provides for the meaning of "active military service" by reference.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4243 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original established that a person is considered to have been honorably discharged from the U.S. armed forces or Texas military forces for purposes of state law if the person was dishonorably discharged solely on the basis of the person's sexual orientation or gender identity, whereas the substitute establishes that the State of Texas recognizes a person as having been honorably discharged from active military service under the following circumstances:

- according to the person's military discharge record, the person was dishonorably discharged, or resigned, retired, or otherwise separated from active military service on the basis of the person's sexual orientation; and
- based on any previous characterization of service, the person would have otherwise received a more favorable character of discharge.

The substitute includes provisions that were not in the original establishing the circumstances under which a person is considered to have been dishonorably discharged or to have resigned, retired, or otherwise separated from active military service on the basis of the person's sexual orientation.

The original entitled an applicable person to benefits, rights, privileges, and immunities provided under state law. The substitute retains this entitlement but also specifies that the person is entitled to benefits, rights, privileges, and immunities provided by the state.

The substitute includes a requirement that was not in the original for a state agency or officer to accept a copy of a person's DD Form 214 for purposes of the bill's provisions.

The substitute includes definitions for "active military service," "DD Form 214," "military discharge record," and "separation code" that were not included in the original.