

Restore Honor to Service Members Act (S. 1956)

Congress's 2011 repeal of "Don't Ask, Don't Tell" ended institutionalized discrimination against gay and lesbian members of the military. Yet thousands of individuals still bear the scars of that discrimination, with their military records tarnished with discharges other than honorable or discriminatory discharge narratives that reveal their sexual orientation. To correct this legacy of injustice, Senators Brian Schatz (D-Hawai'i) and Kirsten Gillibrand (D-NY) introduced the *Restore Honor to Service Members Act* to help service members who were discharged for no other reason than their sexual orientation correct their military record so that it reflects their honorable service.

Background

Since the Second World War, more than 100,000 service members are estimated to have been discharged from the military because of their sexual orientation. Many of those forced out of the military may have left with discharge statuses of "other than honorable," "general discharge" or "dishonorable," depending on the circumstances. As a consequence, these service members may be partially or entirely disqualified from accessing benefits that they earned and are entitled to, such as GI bill tuition assistance and veterans' health care. The consequences of these negative discharges may have far-reaching consequences in their civilian life as well, preventing some veterans from the right to vote and making it more difficult for them to acquire civilian employment.

After "Don't Ask, Don't Tell" went into effect in 1993, many service members discharged from the military were given "honorable" discharges. However, these people are still at risk of discrimination because the Narrative Reason for their discharge may read "Homosexual Conduct," "Homosexual Act," or "Homosexual Marriage," threatening their privacy when they share their discharge paperwork with potential employers and landlords. Moreover, this information can be used in some states as the basis for employment and housing discrimination. In addition, they would have received a negative re-enlistment code barring them from reenlisting in the military, which may erroneously imply to potential civilian employers that they were discharged for bad conduct, stifling their employment opportunities.

While the Department of Defense (DoD) has taken important steps by allowing members to appeal their discharge characterization and change their discharge narrative, the process remains onerous for service members, often requiring them to retain legal counsel to help them navigate red tape, and produce paperwork and other evidence that service members may not have. Moreover, there is no legal requirement that the appeals process remain available to service members seeking corrective action.

Bill Summary

- The bill would ensure that service members who were discharged **for no other reason than their sexual orientation** always have an opportunity to have their records corrected to reflect their honorable service.
- The bill would require the review boards of the military services to establish a timely, consistent, and transparent process for reviewing the records of service members claiming to have been discharged solely because of their sexual orientation.
- The bill would simplify the paperwork requirement necessary for service members to initiate a review in an effort to make the process for corrective action achievable for all. In particular, the lack of documentation cannot be used as the basis for denying a review and it would remove the onus from the service member and place it on DoD to find and produce relevant documentation.
- Finally, the bill would require the historians of each of the military services to review the facts and circumstances of the estimated 100,000 service members discharged for their sexual orientation prior to the repeal of "Don't Ask, Don't Tell."