

117TH CONGRESS
1ST SESSION

H. R. 5300

To direct the Secretary of Defense to establish a tiger team to perform outreach regarding the process by which a member of the Armed Forces, discharged on the basis of sexual orientation, may apply for review of the characterization of such discharge.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2021

Mr. POCAN (for himself, Mrs. BEATTY, Mr. BEYER, Mr. BLUMENAUER, Ms. BLUNT ROCHESTER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BROWNLEY, Mr. CARSON, Mr. CASTRO of Texas, Mr. COHEN, Mr. CONNOLLY, Mr. COSTA, Mr. COURTNEY, Ms. DAVIDS of Kansas, Ms. DEGETTE, Ms. DELBENE, Mr. DEUTCH, Mr. ESPAILLAT, Mr. EVANS, Ms. LOIS FRANKEL of Florida, Mr. GARCÍA of Illinois, Mr. GRIJALVA, Mrs. HAYES, Mr. HIGGINS of New York, Mr. KAHELE, Ms. KELLY of Illinois, Mr. KILDEE, Mr. KILMER, Mr. LANGEVIN, Mr. LAWSON of Florida, Ms. LEE of California, Ms. LOFGREN, Mr. LOWENTHAL, Mr. LYNCH, Mrs. CAROLYN B. MALONEY of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. MCGOVERN, Ms. MENG, Mr. JONES, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOULTON, Ms. NEWMAN, Ms. NORTON, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PAPPAS, Mr. PERLMUTTER, Mr. PETERS, Ms. PINGREE, Mr. QUIGLEY, Mr. RASKIN, Mr. RUSH, Mr. RYAN, Ms. SÁNCHEZ, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHNEIDER, Mr. SIRES, Ms. SLOTKIN, Mr. SOTO, Mr. TAKANO, Ms. TITUS, Mr. TONKO, Mr. VEASEY, Mrs. WATSON COLEMAN, and Mr. WELCH) 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 establish a tiger team

to perform outreach regarding the process by which a member of the Armed Forces, discharged on the basis of sexual orientation, may apply for review of the characterization of such discharge.

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. RESTORING HONOR TO SERVICE MEMBERS.**

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

6 (1) the mission of the Department of Defense
 7 is to provide the military forces needed to deter war
 8 and to protect the security of the United States;

9 (2) expanding outreach to veterans impacted by
 10 Don't Ask, Don't Tell or a similar policy prior to the
 11 enactment of Don't Ask, Don't Tell is important to
 12 closing a period of history harmful to the creed of
 13 integrity, respect, and honor of the military;

14 (3) the Department is responsible for providing
 15 for the review of a veteran's military record before
 16 the appropriate discharge review board or, when
 17 more than 15 years has passed, board of correction
 18 for military or naval records; and

19 (4) the Secretary of Defense should, wherever
 20 possible, coordinate and conduct outreach to im-
 21 pacted veterans through the veterans community
 22 and networks, including through the Department of

1 Veterans Affairs and veterans service organizations,
2 to ensure that veterans understand the review proc-
3 esses that are available to them for upgrading mili-
4 tary records.

5 (b) TIGER TEAM FOR OUTREACH TO FORMER MEM-
6 BERS.—

7 (1) IN GENERAL.—Not later than 60 days after
8 the date of the enactment of this Act, the Secretary
9 of Defense shall establish a team (commonly known
10 as a “tiger team” and referred to in this section as
11 the “Tiger Team”) responsible for conducting out-
12 reach to build awareness among former members of
13 the Armed Forces of the process established pursu-
14 ant to section 527 of the National Defense Author-
15 ization Act for Fiscal Year 2020 (Public Law 116–
16 92; 10 U.S.C. 1552 note) for the review of discharge
17 characterizations by appropriate discharge boards.
18 The Tiger Team shall consist of appropriate per-
19 sonnel of the Department of Defense assigned to the
20 Tiger Team by the Secretary for purposes of this
21 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 90 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 527 of
16 the National Defense Authorization Act for Fiscal
17 Year 2020 for the review of discharge characteriza-
18 tions by appropriate discharge boards.

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

25 (A) The Secretary of Veterans Affairs.

1 (B) The Archivist of the United States.

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

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

6 (3) INITIAL REPORT.—Not later than 210 days
7 after the date of the enactment of this Act, the Sec-
8 retary of Defense shall submit to Congress the fol-
9 lowing:

10 (A) A plan setting forth the following:

11 (i) A description of the manner in
12 which the Secretary, working through the
13 Tiger Team and in collaboration with ex-
14 ternal stakeholders described in paragraph
15 (2), shall identify individuals who meet the
16 criteria in section 527(b) of the National
17 Defense Authorization Act for Fiscal Year
18 2020 for review of discharge characteriza-
19 tion.

20 (ii) A description of the manner in
21 which the Secretary, working through the
22 Tiger Team and in collaboration with the
23 external stakeholders, shall improve out-
24 reach to individuals who meet the criteria
25 in section 527(b) of the National Defense

1 Authorization Act for Fiscal Year 2020 for
2 review of discharge characterization, in-
3 cluding through—

4 (I) obtaining contact information
5 on such individuals; and

6 (II) contacting such individuals
7 on the process established pursuant to
8 section 527 of the National Defense
9 Authorization Act for Fiscal Year
10 2020 for the review of discharge char-
11 acterizations.

12 (B) A description of the manner in which
13 the work described in clauses (i) and (ii) of sub-
14 paragraph (A) will be carried out, including an
15 allocation of the work among the Tiger Team
16 and the external stakeholders.

17 (C) A schedule for the implementation,
18 carrying out, and completion of the plan re-
19 quired under subparagraph (A).

20 (D) A description of the additional fund-
21 ing, personnel, or other resources of the De-
22 partment required to carry out the plan re-
23 quired under subparagraph (A), including any
24 modification of applicable statutory or adminis-
25 trative authorities.

1 (4) IMPLEMENTATION OF PLAN.—

2 (A) IN GENERAL.—The Secretary shall im-
3 plement and carry out the plan submitted under
4 subparagraph (A) of paragraph (3) in accord-
5 ance with the schedule submitted under sub-
6 paragraph (C) of that paragraph.

7 (B) UPDATES.—Not less frequently than
8 once every 90 days after the submittal of the
9 report under paragraph (3), the Tiger Team
10 shall submit to Congress an update on the car-
11 rying out of the plan submitted under subpara-
12 graph (A) of that paragraph.

13 (5) FINAL REPORT.—Not later than 3 years
14 after the date of the enactment of this Act, the
15 Tiger Team shall submit to the Committees on
16 Armed Services of the Senate and the House of Rep-
17 resentatives a final report on the activities of the
18 Tiger Team under this subsection. The report shall
19 set forth the following:

20 (A) The number of individuals discharged
21 under Don't Ask, Don't Tell or a similar policy
22 prior to the enactment of Don't Ask, Don't
23 Tell.

24 (B) The number of individuals described in
25 subparagraph (A) who availed themselves of a

1 review of discharge characterization (whether
2 through discharge review or correction of mili-
3 tary records) through a process established
4 prior to the enactment of this Act.

5 (C) The number of individuals contacted
6 through outreach conducted pursuant to this
7 section.

8 (D) The number of individuals described in
9 subparagraph (A) who availed themselves of a
10 review of discharge characterization through the
11 process established pursuant to section 527 of
12 the National Defense Authorization Act for Fis-
13 cal Year 2020.

14 (E) The number of individuals described in
15 subparagraph (D) whose review of discharge
16 characterization resulted in a change of charac-
17 terization to honorable discharge.

18 (F) The total number of individuals de-
19 scribed in subparagraph (A), including individ-
20 uals also covered by subparagraph (E), whose
21 review of discharge characterization since Sep-
22 tember 20, 2011 (the date of repeal of Don't
23 Ask, Don't Tell), resulted in a change of char-
24 acterization to honorable discharge.

1 (6) TERMINATION.—On the date that is 60
2 days after the date on which the final report re-
3 quired by paragraph (5) is submitted, the Secretary
4 shall terminate the Tiger Team.

5 (d) ADDITIONAL REPORTS.—

6 (1) REVIEW.—The Secretary of Defense shall
7 conduct a review of the consistency and uniformity
8 of the reviews conducted pursuant to section 527 of
9 the National Defense Authorization Act for Fiscal
10 Year 2020.

11 (2) REPORTS.—Not later than 270 days after
12 the date of the enactment of this Act, and each year
13 thereafter for a four-year period, the Secretary shall
14 submit to Congress a report on the reviews under
15 paragraph (1). Such reports shall include any com-
16 ments or recommendations for continued actions.

17 (e) REVIEW OF DISCHARGE.—

18 (1) IN GENERAL.—The Secretary of Defense
19 shall review and update existing guidance to ensure
20 that the appropriate discharge board for the military
21 departments concerned shall review a discharge
22 characterization of the covered member as required
23 under section 527 of the National Defense Author-
24 ization Act for Fiscal Year 2020 at the request of
25 a covered member, or their representative, notwith-

1 standing any requirements to provide documentation
2 necessary to initiate a review of a discharge charac-
3 terization.

4 (2) EXCEPTION.—The appropriate discharge
5 board for the military departments concerned shall
6 not be required to initiate a request for a review of
7 a discharge as described in paragraph (1) if there is
8 evidence available to the discharge board that is un-
9 related to the material request of the covered mem-
10 ber or their representative but that would have rea-
11 sonably substantiated the military department's dis-
12 charge decision.

13 (f) VETERANS BENEFITS.—

14 (1) EFFECTIVE DATE OF CHANGE OF CHARAC-
15 TERIZATION FOR VETERANS BENEFITS.—For pur-
16 poses of the provision of benefits to which veterans
17 are entitled under the laws administered by the Sec-
18 retary of Veterans Affairs to a covered member
19 whose discharge characterization is changed pursu-
20 ant to section 527 of the National Defense Author-
21 ization Act for Fiscal Year 2020 (Public Law 116–
22 92; 10 U.S.C. 1552 note), the date of discharge of
23 the member from the Armed Forces shall be deemed
24 to be the effective date of the change of discharge
25 characterization under that section.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to authorize any ben-
3 efit to a covered member in connection with the
4 change of discharge characterization of the member
5 under section 527 of the National Defense Author-
6 ization Act for Fiscal Year 2020 (Public Law 116–
7 92; 10 U.S.C. 1552 note) for any period before the
8 effective date of the change of discharge character-
9 ization.

10 (g) HISTORICAL REVIEWS.—

11 (1) IN GENERAL.—The Secretary of each mili-
12 tary department shall ensure that oral historians of
13 the department, in coordination with the chief of the
14 personnel division for the military department con-
15 cerned—

16 (A) review the facts and circumstances
17 surrounding the estimated 100,000 members of
18 the Armed Forces discharged from the Armed
19 Forces between World War II and September
20 2011 because of the sexual orientation of the
21 member, including any use of ambiguous or
22 misleading separation codes and characteriza-
23 tions intended to disguise the discriminatory
24 basis of such members' discharge; and

1 (B) receive oral testimony of individuals
2 who personally experienced discrimination and
3 discharge because of the actual or perceived
4 sexual orientation of the individual so that such
5 testimony may serve as an official record of
6 these discriminatory policies and their impact
7 on American lives.

8 (2) DEADLINE FOR COMPLETION.—Each Sec-
9 retary of a military department shall ensure that the
10 oral historians concerned complete the actions re-
11 quired by paragraph (1) by not later than two years
12 after the date of the enactment of this Act.

13 (3) USES OF INFORMATION.—Information ob-
14 tained through actions under paragraph (1) shall be
15 available to members described in that paragraph for
16 pursuit by such members of a remedy under section
17 527 of the National Defense Authorization Act for
18 Fiscal Year 2020 in accordance with regulations
19 prescribed for such purpose by the Secretary of the
20 military department concerned.

21 (h) DON'T ASK, DON'T TELL DEFINED.—In this sec-
22 tion, the term “Don’t Ask, Don’t Tell” means section 654
23 of title 10, United States Code, as in effect before such

- 1 section was repealed pursuant to the Don't Ask, Don't
- 2 Tell Repeal Act of 2010 (Public Law 111–321).

