

Legislation for LGBTQ+ Women Veterans

LGBTQ service members were taboo for centuries across the world. These identities and orientations were also criminalized in various countries until the past few decades. Homosexual activity has been a punishable offense for discharge from the US military since the Revolutionary War. However, official policies on this subject did not appear until just before World War II. At the time, homosexuality was viewed as a disqualifying trait in psychiatric screening. Prior to WWII, if homosexuality was found after the service member was already in, they would be court-martialed, imprisoned, and dishonorably discharged.

But during the war, commanders found it too difficult to undergo the court-martial proceedings so that these offenders would be given administrative blue discharges. This type of military discharge was not honorable or dishonorable and was given out for other offenses than homosexuality. African American service members were disproportionately given blue discharges. Recipients were not allowed to utilize veteran education benefits. They also faced difficulty finding employment since employers were often unaware of this discharge. After criticism from the press, the House Committee on Military Affairs appointed a special committee with Rep. Carl T. Durham (D-NC) as its chairman. They were to review the Veterans Administration's procedures surrounding the treatment of those with blue discharges. The committee issued a report on January 30, 1946 called "Investigations of the National War Effort." The report found that those with blue discharges are treated nearly the same as those with dishonorable discharges. Despite the report's recommendations, the VA continued discriminating against homosexual blue discharge recipients.

At the behest of human rights advocates, President Clinton issued the "don't ask, Don't tell" (DADT) policy as a compromise between the opposing advocates. This policy was issued under Department of Defense Directive

1304.26 on December 21, 1993, and was in effect from February 28, 1994, until September 20, 2011. It prohibited military personnel from discriminating against or harassing closeted homosexual or bisexual service members or applicants while barring openly gay, lesbian, or bisexual persons from military service. When the chain of command is made aware of the non-heterosexual service member, they are supposed to discharge such personnel. Often, LGBTQ+ people will be discharged in such a way that they lose their veterans benefits. Since the repeal of DADT, no actions have been taken to overturn these types of discharges automatically.

Sadly, very little has been done by Congress to rectify these misgivings. In the 117th Congressional Session, Rep. Mark Takano (D-CA) and Sen. Richard Blumenthal (D-CT) introduced bills ([H.R. 1596](#) and [S. 2188](#)) to establish a commission to study the stigmatization, criminalization, and ongoing exclusion and inequity for LGBTQ servicemembers, and veterans. Neither bill was brought to a full chamber vote prior to the end of the 117th session. In the same session, Rep. Kaiiali'i Kahele (D-HI) and Rep Chris Pappas (D-NH) introduced bills ([H.R. 4845](#) and [H.R. 5776](#)) to establish a Center or Advisory Committee for Lesbian, Gay, Bisexual, Transgender, and Queer Veterans. These bills have also failed to pass. One last bill that failed to pass to help the LGBTQ community is [S. 2792 - National Defense Authorization Act for Fiscal Year 2022](#). This bill would have included the LGBTQ community when developing training to build the capacity of sexual assault response coordinators (SARC) and victim advocates so that they can provide competent care.

[S. 785 - Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019](#) passed October 17, 2020, to improve mental health care provided by the Department of Veterans Affairs. That act directed the VA

to study the effectiveness of suicide prevention and mental health outreach programs with LGBTQ communities.

There is still much more to be done for the LGBTQ community. The LGBTQ veterans who received negative discharges need restitution. Current LGBTQ service members need effective protections against harassment, hate crimes, and criminalization.



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