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# A BILL FOR AN ACT

RELATING TO VETERANS SERVICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the Hawaii Marriage  
2 Equality Act of 2013 legalized same-sex marriages in the State.  
3 Veterans and their family members have certain burial rights in  
4 designated national and state veterans cemeteries. However,  
5 prior to 2013, same-sex couples' relationships were not  
6 recognized by the State as spousal relationships for the  
7 purposes of veterans burial rights. Currently under state law,  
8 if a veteran same-sex partner died prior to the effective date  
9 of the Hawaii Marriage Equality Act, the veteran's surviving  
10 spouse is not able to be interred with the deceased partner.

11           The legislature further finds that there are forms of  
12 relief that have been afforded to same-sex partners wishing to  
13 be buried in veterans cemeteries. There is the case of Nancy  
14 Lynchild, who was married to her same-sex partner veteran Lt.  
15 Col. Linda Campbell in Canada in 2010. Lynchild died in 2012,  
16 before the U.S. Supreme Court ruled that the federal Defense of  
17 Marriage Act was unconstitutional. At the time of Lynchild's



1 death, the marriage wasn't recognized by the federal government;  
2 nevertheless, Campbell requested permission from the Secretary  
3 of Veterans Affairs for Lynchild to be buried at the Willamette  
4 National Cemetery. Although Lynchild did not fall into any of  
5 the categories of persons explicitly listed as being eligible to  
6 be buried in a national cemetery, the Secretary granted a waiver  
7 to allow her to be interred at the national cemetery and cited  
8 that it was based in part on evidence of a committed  
9 relationship between Lynchild and an eligible veteran. Under  
10 state law, the director of the office of veterans services does  
11 not have the same discretion as the Secretary of Veterans  
12 Affairs to grant a waiver to a same-sex couple who were not  
13 allowed to marry but are now seeking to be interred together at  
14 a state veterans cemetery.

15 The purpose of this Act is to allow for interment of a  
16 surviving, unmarried, same-sex partner of a deceased veteran at  
17 any state veterans cemetery if the surviving partner provides  
18 written evidence that the couple would have married but for a  
19 state law prohibiting same-sex marriage.

20 SECTION 2. Section 363-5, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) The determination of eligibility for burial within  
2 any state veterans cemetery shall be in accordance with current  
3 Veterans Affairs and National Cemeteries Administration  
4 Regulations[-]; provided that a surviving, unmarried, same-sex  
5 partner of a deceased veteran may be interred at any state  
6 veterans cemetery if the surviving partner provides a written  
7 formal request for waiver and evidence to the Secretary of  
8 Veterans Affairs that the couple would have married but for a  
9 state law prohibiting same-sex marriage, including a joint bank  
10 account, an affidavit, a rental agreement, or other case  
11 evidence deemed appropriate by the Secretary of Veterans  
12 Affairs. After review of the waiver request, the Secretary of  
13 Veterans Affairs shall have the authority to adjudicate and to  
14 respond accordingly to the requestor including approval of  
15 internment."

16           SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18           SECTION 4. This Act shall take effect on January 1, 2050;  
19 provided that a surviving, unmarried, same-sex partner of a  
20 deceased veteran may apply for interment at any state veterans  
21 cemetery at any time after the effective date of this Act if the



1 surviving partner provides written evidence that the couple  
2 would have married but for a state law prohibiting same-sex  
3 marriage.



**Report Title:**

Veterans Services; State Veterans Cemeteries

**Description:**

Provides that a surviving, unmarried, same-sex partner of a deceased veteran may be interred at any state veterans cemetery provided that the surviving partner provides a written formal request for waiver and evidence to the Secretary of Veteran Affairs that the couple would have married but for a state law prohibiting same-sex marriage. (HB671 HD2)

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