

§504. Maine Veterans' Memorial Cemetery System

1. Land acquisition. The director may acquire by eminent domain in accordance with Title 35-A, chapter 65 and with approval of the Governor, or by purchase, gift or otherwise, real estate in fee simple, or any interest therein, for use by the Maine Veterans' Memorial Cemetery System. [PL 2001, c. 662, §63 (AMD).]

2. Superintendent of the cemetery system. The director, with approval of the appointing authority, shall appoint a competent and trustworthy superintendent of the cemetery system and shall arrange for personnel, material and equipment necessary for adequate maintenance of the cemeteries. [PL 2009, c. 406, §9 (AMD).]

3. Monuments, buildings and markers. The director shall erect a suitable monument in the center of each cemetery.

A. The monument must be suited to the topography of the land and display, on suitable flag poles, the national emblem and the state flag in accordance with the Flag Code. [PL 1991, c. 626, §12 (AMD).]

B. The immediate area surrounding the monument must be prepared and reserved as a suitable place for commemorating Memorial Day and other appropriate observances. The remaining grounds must be laid out in a manner suitable to the topography of the land, expanding from the center when possible. Suitable buildings may be erected for purposes the director determines necessary. [PL 2019, c. 377, §2 (AMD).]

C. All nongreen burial section grave markers must be flat-type granite or 42-inch upright white marble grave markers as furnished by the United States Department of Veterans Affairs, National Cemetery Administration. Grave markers for a green burial section must be granite as furnished by the National Cemetery Administration. All caskets used for burial in nongreen burial sections must be protected with permanent vaults. Permanent vaults must be reinforced and properly cured and match pounds per square inch specifications imposed by the National Cemetery Administration. Vaults may be either water-resistant or waterproof or have drain holes in their liner boxes as long as they meet the stated specifications. Headstones and vaults are not provided at state expense. The process of a burial in a green burial section may not include the use of embalming fluids and must use a shroud made of natural biodegradable fabric, and the decedent must be strapped onto a wooden board of appropriate size or placed in a wicker casket or a wooden casket that has been assembled with wooden dowels and contains no metal. [PL 2019, c. 377, §3 (AMD).]

[PL 2019, c. 377, §§2, 3 (AMD).]

4. Burials. Burials in the cemeteries must be as follows.

A. [PL 1985, c. 117, §1 (RP).]

A-1. As used in this subsection, unless the context indicates otherwise, the following terms have the following meanings.

(1) "Eligible dependent" means:

- (a) The spouse or surviving spouse of an eligible veteran even if that veteran is not buried or memorialized in the cemetery system or the surviving spouse of a member of the United States Armed Forces whose remains are unavailable for burial;
- (b) The surviving spouse of an eligible veteran who had a subsequent remarriage to a person who is not a veteran when the surviving spouse's death occurred on or after January 1, 2000;

(c) A minor child of an eligible veteran. For purposes of this division, a minor child is a child who is unmarried and:

- (i) Has not attained 21 years of age; or
- (ii) Has not attained 23 years of age and is pursuing a full-time course of instruction at an educational institution offering an accredited postsecondary educational degree program; and

(d) An unmarried adult child of an eligible veteran if that child became permanently physically or mentally disabled and incapable of self-support:

- (i) Before attaining 21 years of age; or
- (ii) Before attaining 23 years of age if supporting documentation exists that the adult child was pursuing a full-time course of instruction at an educational institution offering an accredited postsecondary educational degree program.

(2) "Eligible veteran" means any person who:

(a) Served in the active United States Armed Forces and who:

- (i) If discharged, received an honorable discharge or a general discharge under honorable conditions, as long as the discharge was not upgraded through a program of general amnesty; and
- (ii) If having served as an enlisted person after September 7, 1980 or as an officer after October 16, 1981, served for a minimum of 24 continuous months or the full period for which the person was called to active duty;

(b) Served in the Maine National Guard and died as a result of injury, disease or illness sustained while serving on active state service;

(d) Served in the Reserve Components of the United States Armed Forces and was entitled to retired pay under 10 United States Code, chapter 1223, section 12731 or would have been entitled to retired pay under chapter 1223, section 12731 except that the person was under 60 years of age; or

(e) Died while serving in the Active Guard Reserve and whose death is determined to be in the line of duty.

(3) "Program of general amnesty" does not include the process for upgrading a discharge for state law purposes under section 517. [PL 2023, c. 202, §2 (AMD).]

B. The director must allow the earth burial in one of the cemeteries of any eligible veteran who requests burial in the cemetery system. The director must allow the veteran the option of crypt burial if crypt space exists. All burials must be without charge. [PL 1999, c. 401, Pt. II, §1 (AMD).]

B-1. The director may allow the earth burial in one of the cemeteries of a person, and any spouse or minor child of that person, who meets the criteria established by the department by rule and who died while:

- (1) A member or former member of the National Guard;
- (2) A member or former member of the state military forces or the Reserve Components of the United States Armed Forces; or
- (3) A member of a reserve officer training corps of the United States Armed Forces.

The department shall adopt rules necessary to implement this paragraph, including rules governing the eligibility for burial in the cemeteries. In establishing criteria for the burial of a person under

this paragraph, the department shall ensure that such criteria comply with any applicable state or federal requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 593, §1 (NEW).]

C. At the dependent's request, the director must allow an eligible dependent of a veteran to be buried in one of the cemeteries if, at the date of the dependent's death, the veteran would be eligible for burial. Dependents may be buried in the same grave as the veteran or adjacent to the veteran, in accordance with regional state veterans' cemetery procedures, without charge, so long as:

- (1) If the veteran dies first, the dependents specify in writing their intention to be so buried;
- (2) If the dependent dies first, the veteran specifies in writing the intention to be buried in the same grave as the dependent or adjacent to the dependent; or
- (3) Eligible family members of members of the armed services or veterans who are permanently buried overseas, buried at sea, missing in action and declared dead, or whose bodies are inaccessible for other reasons, may be buried in one of the cemeteries if the deceased member of the armed services or veteran was eligible for the burial at the time of death. [PL 2007, c. 167, §3 (AMD).]

D. The plots must be reserved as necessary and a permanent record of all burials must be kept. [PL 1999, c. 401, Pt. II, §1 (AMD).]

E. Remains of eligible veterans or eligible dependents previously buried in other cemeteries may be reinterred in one of the cemeteries upon request, as long as no cost other than that which would be incurred in an original burial is borne by the State. [PL 2007, c. 167, §4 (AMD).]

F. This subsection may not be construed to obligate the State beyond the furnishing of a grave site, opening and closing of the grave and maintenance of the grave and the cemeteries thereafter in perpetuity. [PL 1999, c. 401, Pt. II, §1 (AMD).]

G. The interment of an eligible veteran or eligible dependent is permanent and final except that the director may allow disinterment as long as there is no cost to the State. [PL 2011, c. 539, §1 (NEW).]

H. A person is not eligible for interment under this chapter if the person has:

- (1) Been convicted of the crime of murder;
- (2) Been convicted of a crime in another jurisdiction punishable by a sentence of life imprisonment or death;
- (3) Been convicted of a Class A or Class B crime under:
 - (a) Title 17-A, chapter 11;
 - (b) Title 17-A, chapter 12;
 - (c) Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3) if the crime is committed prior to January 1, 2022; or
 - (d) Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3-A) if the crime is committed on or after January 1, 2022;
- (4) Been convicted of a Class C crime under Title 17-A, section 853, subsection 1;
- (5) Been convicted of a military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151;
- (6) Been convicted under any other jurisdiction's sex offender laws requiring the person to register for life; or

(7) Been found to have committed any crime listed in subparagraphs (1) to (6) but has not been convicted because the person has not been available for trial due to the person's death or flight to avoid prosecution. A finding under this subparagraph must be made by the appropriate federal official. Any such finding may be based only upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate federal official. For purposes of this subparagraph, "appropriate federal official" means the Secretary of Veterans Affairs, in the case of the National Cemetery Administration, or the Secretary of the Army, in the case of the Arlington National Cemetery. [PL 2021, c. 299, Pt. B, §4 (AMD).]

[PL 2023, c. 202, §2 (AMD).]

5. Weekend visitation. The director of the cemetery system shall arrange for public access during weekend daylight hours and regularly scheduled weekday visiting hours unless closure of the cemetery is considered necessary by the director for security or public safety purposes.

[PL 2007, c. 368, §1 (AMD).]

6. Maine Veterans' Memorial Cemetery Maintenance Fund. There is established the Maine Veterans' Memorial Cemetery Maintenance Fund, an interest-bearing account, referred to in this subsection as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5289 and any other money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used for the maintenance and upkeep of Maine veterans' cemeteries and for the necessary administrative and personnel costs associated with the management of the fund. Money in the fund may not be deposited in the General Fund or any other fund except as specifically provided by law.

[PL 2005, c. 519, Pt. RRR, §2 (NEW); PL 2005, c. 519, Pt. RRR, §3 (AFF).]

7. Flag placement program. The director of the cemetery system shall establish a program to facilitate the placement of 12-inch by 18-inch American flags at the graves of veterans buried in the Maine Veterans' Memorial Cemetery System. This program must allow for volunteer organizations to place flags on graves beginning 2 days prior to the day Memorial Day is observed and for removal by volunteer organizations 3 days after the day Memorial Day is observed. The director of the cemetery system shall permit a limited extension beyond the 3 days, so that the flags do not have to be removed in inclement weather. The director of the cemetery system is authorized to use funds as provided in subsection 8 and to accept private donations of flags, tools or other equipment necessary to implement the program.

[PL 2007, c. 368, §2 (NEW).]

8. Flag placement fund. There is established the Maine Veterans' Memorial Cemetery Flag Placement Fund, an interest-bearing account, referred to in this subsection as "the fund." The fund receives money appropriated from the General Fund and any other money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used to implement the flag placement program as described in subsection 7, specifically for the purchase of new flags as needed to ensure each veteran's grave is decorated as required by subsection 7 and as replacements for damaged flags. Money in the fund may not be deposited in the General Fund or any other fund except as specifically provided by law.

[PL 2007, c. 368, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 460, §3 (NEW). PL 1985, c. 117, §§1,2 (AMD). PL 1987, c. 141, §B35 (AMD). PL 1989, c. 96 (AMD). PL 1989, c. 502, §D21 (AMD). PL 1989, c. 669, §§1,2 (AMD). PL 1991, c. 247 (AMD). PL 1991, c. 626, §§11-15 (AMD). PL 1993, c. 150, §1 (AMD). PL 1993, c. 427, §8 (AMD). PL 1993, c. 680, §A33 (AMD). PL 1993, c. 694, §§4-7 (AMD). PL 1997, c. 455, §§20-24 (AMD). PL 1997, c. 783, §2 (AMD). PL 1999, c. 401, §II1 (AMD). PL 1999, c. 462,

§4 (AMD). PL 1999, c. 517, §1 (AMD). PL 1999, c. 531, §D1 (AMD). PL 1999, c. 531, §D2 (AFF). PL 1999, c. 790, §D11 (AMD). PL 2001, c. 662, §§63-65 (AMD). PL 2005, c. 273, §1 (AMD). PL 2005, c. 519, §RRR2 (AMD). PL 2005, c. 519, §RRR3 (AFF). PL 2007, c. 167, §§2-5 (AMD). PL 2007, c. 368, §§1-3 (AMD). PL 2007, c. 521, §1 (AMD). PL 2009, c. 406, §9 (AMD). PL 2011, c. 539, §1 (AMD). PL 2015, c. 175, §1 (AMD). PL 2019, c. 377, §§2, 3 (AMD). PL 2019, c. 601, §1 (AMD). PL 2021, c. 37, §2 (AMD). PL 2021, c. 299, Pt. B, §4 (AMD). PL 2021, c. 593, §1 (AMD). PL 2023, c. 202, §2 (AMD).

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