



TO: Municipal Clerks, Funeral Directors and Persons in Charge of a Public Burying Ground
FROM: Data, Research, and Vital Statistics (DRVS)
SUBJECT: **Authorization for the Burial or Removal of Cremated Remains**
DATE: September 18, 2019

Data, Research, and Vital Statistics (DRVS) sent a memo to stakeholders on August 20, 2019 regarding bills to be enacted from this past 129th Legislation Session. *LD 1484, An Act to Create a System Using the Permit for Disposition of Human Remains To Track the Burial of Cremated Remains in a Public Cemetery*, will become effective September 19, 2019. Please see questions and answers related to the authorization for the burial or removal of cremated remains below and visit the Legislative website to view the new language in the law at http://legislature.maine.gov/legis/bills/display_ps.asp?LD=1484&snum=129.

1. What are the new requirements in law?

The new language in law will require individuals (authorized persons and/or funeral directors) who would like to bury cremated remains in a public burying ground to present authorization to the person in charge of a public burying ground prior to or during the burial or removal of the cremated remains. Cremated remains must not be buried in a public burying ground without obtaining authorization from the person in charge of a public burying ground.

2. What is considered a private burying ground?

Many landowners elect to establish a burial ground on their property for the purpose of interring family members. Although a license to do so is not needed, such a family burial ground does have to be recorded.

When a person appropriates for a family burying ground a piece of land containing not more than 1/4 of an acre, causes a description of it to be recorded in the registry of deeds of the same county or by the clerk of the town where it is situated and substantially marks the bounds of the burying ground or encloses it with a fence, it is exempt from attachment and execution. The owner must have a description of the parcel recorded in the Registry of Deeds for the same county or by the Town Clerk. To best assure protection of the burying ground as well as ensuring compliance with any local ordinances, we recommend that the parcel be recorded with both the Town and the County.

3. What is considered a public burying ground?

A public burying ground, as defined by Title 13 §1011-A subsection 4, is a burying ground or cemetery in which any person may be buried without regard to religious or other affiliation and includes a cemetery owned and operated by a municipality, a cemetery corporation or a cemetery association.

4. What if there is no person in charge of the public burying ground?

If there is no person in charge of the public burying ground, individuals (authorized persons and/or funeral directors) who would like to bury cremated remains in a public burying ground must present authorization to an official of the municipality in which the public burying ground is located.

5. How do individuals (authorized persons and/or funeral directors) obtain “authorization”?

"Authorization" means the form or electronic process prescribed and furnished by the State Registrar of Vital Statistics for purpose of tracking a decedent's place of burial in a public burying ground after cremation has occurred and recording the consent of an authorized person or funeral director. An "authorization" form has been developed for this purpose. The "authorization" is available in forms from the Database of Vital Events (DAVE) system and is located on DRVS public website at <https://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml> under *Death Forms and Information*.

6. Is there a fee to obtain “authorization”?

No, there is no fee related to authorization for the burial or removal of cremated remains. Only documentation is required to track the burial of cremated remains in a public burying ground by the completion of authorization.

7. Who can be an authorized person?

Title 22 §2846 defines "authorized person" as a member of the immediate family of the deceased, the domestic partner of the deceased, a person authorized in writing by a member of the immediate family of the deceased if no member of the immediate family of the deceased wishes to assume the responsibility or by the domestic partner of the deceased if the domestic partner does not wish to assume the responsibility or, in the absence of immediate family or a known domestic partner, a person authorized in writing by the deceased. A "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

8. What is the responsibility of individual (authorized person and/or funeral director)?

The authorized person and/or funeral director is responsible for obtaining the authorization form (as specified in question #3), completing the decedent's information (items #2 through #9) and endorsing (item #1) on the authorization form and presenting the form to the person in charge of the public burying ground prior to or during the burial or removal of the cremated remains. If there is no person in charge of the public burying ground, the authorization form must be presented to an official of the municipality in which the public burying ground is located prior to or during the burial or removal of the cremated remains.

9. What is the responsibility of the person in charge of the public burying ground (or official of the municipality where the public burying ground is located)?

The person in charge of the public burying ground is responsible for endorsing and completing the public burying ground information (items #10 through #15) on the authorization form and returning the completed form to the State Registrar of Vital Statistics within 7 days after the cremated remains were buried or removed. The completed form may be mailed or faxed to DRVS as specified on the authorization form. A copy of the completed authorization may be retained by the person in charge of the public burying ground.

10. What if the person in charge of the public burial ground is not available to sign/endorse authorization?

In the event the person in charge of the public burying ground is not available to sign the authorization form, the responsibility would fall on the official of the municipality where the public burying ground is located. The official of the municipality would be responsible for endorsing and completing the public burying ground information (items #10 through #15) on the authorization form and returning the completed form to the State Registrar of Vital Statistics within 7 days after the cremated remains were buried or removed. The completed form may be mailed or faxed to DRVS as specified on the authorization form. A copy of the completed authorization may be retained by the official of the municipality.

11. What if authorization is not returned to the State Registrar of Vital Statistics within 7 days after cremated remains were buried?

If authorization is not returned to the State Registrar within 7 days after cremated remains were buried, the funeral director or authorized person may present a copy of the endorsed authorization. The State Registrar may request authorizations not received to be completed by the authorized person, funeral director, person in charge of the public ground or official of the municipality in which the public burying ground is located.

12. Does authorization need to be obtained if the "disposition of cremated remains" is completed on the (VS-35) Permit for Disposition of Human Remains?

Yes. For consistency and data collection reasons, DRVS would like to have one procedure to track the burial or removal or cremated remains in a public burying ground. The "disposition of cremated remains" on the disposition permit may still be completed although it is not required. Cremation is still considered final disposition and cremated remains may be buried at any time and recorded on the authorization form.

13. Are any municipalities keeping a record of cremated remains buried not in public burying ground or cremated remains being scattered?

The law currently only requires the tracking of cremated remains being buried in a public burying ground although funeral directors and/or authorized persons often times complete the disposition of cremated remains (item #24 - #27) on the disposition permit, whether checked "To Family" or "Scattered".

14. How will municipalities access the completed authorization information?

DRVS will scan and enter the completed authorization forms and information into the FORTIS system until enhancements have been made to the DAVE system. DRVS will pull data out of FORTIS (frequency to be determined) and make available to municipalities through an online portal system on DRVS website; similar to the death and marriage index currently in place. Instructions will be forthcoming.