

15 **DEPARTMENT OF DEFENSE, VETERANS AND EMERGENCY MANAGEMENT**

215 **MAINE BUREAU OF VETERANS' SERVICES**

Chapter 4: EXPANDED BURIAL ELIGIBILITY IN THE MAINE VETERANS' MEMORIAL
CEMETERY SYSTEM

Summary: This rule governs burial eligibility in the Maine Veterans' Memorial Cemetery, pursuant to 37-B M.R.S. § 504(4)(B-1)(2024), enacted by P.L. 2021, ch. 593.

SECTION 1. Purpose

This rule provides burial eligibility for certain Members or Former Members of the National Guard, Reserve Components of the United States Armed Forces and eligible dependents, And Members of the Reserve Officer Training Corps of the United States Armed Forces in the Maine Veterans' Memorial Cemetery System, pursuant to 37-B M.R.S. § 504(4)(B-1)(2024), enacted by P.L. 2021, Ch. 593.

SECTION 2. Definitions

1. **Armed Forces.** "Armed Forces" means the United States Army, Navy, Air Force, Marines, Coast Guard, Space Force, and World War II-era Merchant Mariners.
2. **Bureau.** "Bureau" means the Maine Bureau of Veterans' Services of the Maine Department of Defense, Veterans and Emergency Management.
3. **Burial.** "Burial" means the interment within the Maine Veterans' Memorial Cemetery System. Burial may include interment in the earth or interment in a columbarium.
4. **Cemetery.** "Cemetery" means the Northern Maine Veterans' Cemetery, Maine Veterans' Memorial Cemetery at Civic Center Drive, Maine Veterans' Memorial Cemetery at Mt. Vernon Road, and the Southern Maine Veterans' Cemetery.
5. **Cooperative agreement.** "Cooperative agreement" means a contract entered between the Bureau and a Vendor used by the National Cemetery Administration to acquire headstones and markers.
6. **Department.** "Department" means the Maine Department of Defense, Veterans and Emergency Management.
7. **Director.** "Director" means the Director of the Maine Bureau of Veterans' Services of the Maine Department of Defense, Veterans and Emergency Management.
8. **Eligible Dependent** "Eligible Dependent" means spouse, surviving spouse, or dependent child.
9. **Eligible Sponsor.** "Eligible Sponsor" means certain Members or Former Members of the National Guard, Reserve Components of the United States Armed Forces, and Members of the

Reserve Officer Training Corps of the United States Armed Forces in the Maine Veterans' Memorial Cemetery System for the purpose of determining dependent burial eligibility.

10. **Guard Members.** "Guard Members" means a member or former member of the Army National Guard or Air National Guard.
11. **Maine Resident.** "Maine Resident" means a person, dependent or minor child that maintained a physical address in the State of Maine.
12. **Military Service Contract.** "Military Service Contract" means a legally binding agreement to military service for an identified period of time.
13. **National Guard.** "National Guard" means the Maine Army National Guard and the Maine Air National Guard.
14. **NCA.** "NCA" is the National Cemetery Administration, a component of the United States Department of Veterans Affairs.
15. **Plot Allowance.** "Plot Allowance" means funds provided to the State of Maine to the Cemetery for costs associated with the opening and closing of the gravesite or Columbarium.
16. **Reserve Component.** "Reserve Component" means the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air Force Reserve, the Space Force Reserve, and the Coast Guard Reserve.
17. **Reserve Officer Training Corps.** "Reserve Officer Training Corps" (ROTC) is the college or university training program that prepares students to become commissioned officers.
18. **Reservist.** "Reservist" means a member or former member of the Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve, Space Force Reserve, and Coast Guard Reserve.
19. **State Military Forces.** "State Military Forces" means military units under the command of the Governor, i.e., Army National Guard and Air National Guard.
20. **Vendor.** "Vendor" means a retailer or wholesaler of headstones or markers approved by NCA.
21. **Veteran.** "Veteran" means a 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;

- c. 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
- d. Died while serving in the Active Guard Reserve and whose death is determined to be in the line of duty.

SECTION 3. Military Service Requirements

1. Members or former members of the National Guard, State Military Forces, or the Reserve Components of the United States Armed Forces shall meet the following military service requirements to be considered eligible for interment within the Cemetery:
 - a. Will have received an Honorable Discharge, so long as that discharge was not upgraded through a program of general amnesty; and
 - b. Will have served and completed their first initial Military Service Contract in its entirety, unless medically discharged.
 - i. Providing proof of service is the responsibility of the person applying for burial or pre-eligibility. The Bureau can assist with records requests in the event that service records are unavailable.

SECTION 4. Burial Eligibility

1. The Director may allow the earth burial in one of the cemeteries of a person, and any eligible dependent of that person, who meets the criteria established by the department by rule and who died while:
 - a. A member or former member of the Maine National Guard; or
 - b. A member or former member of the state military forces, or the Reserve Components of the United States Armed Forces assigned to a unit within the State of Maine; or
 - c. A contracted member of a Reserve Officer Training Corps of the United States Armed Forces of the State of Maine; or
 - d. A member or former member of the National Guard, state military forces, or the Reserve Components of the United States Armed Forces assigned outside the State of Maine and who maintained a Maine residence for five years preceding the death of the person or eligible dependent; or
 - e. A contracted Reserve Officer Training Corps Cadet of the United States Armed Forces outside the State of Maine and who maintained a Maine residence for five years preceding the death of the person; or
 - f. A member or former member of the National Guard, State Military Forces, or the Reserve Components of the United States Armed Forces from outside the State of Maine and who was not a Maine resident for five years preceding the death of the person or eligible dependent will be eligible for burial with an Interment Fee as determined in Section 7; or

- g. A contracted Reserve Officer Training Corps Cadet of the United States Armed Forces assigned from outside the State of Maine and who was not a Maine resident for five years preceding the death of the person will be eligible for burial with an Interment Fee as determined in Section 7.
2. The Director may waive the eligibility requirements of this section when they determine, in their sole discretion, that special and extenuating circumstances exist that may negatively and extraordinarily affect members or former members of the National Guard, State Military Forces, or the Reserve Components of the United States Armed Forces.

SECTION 5. Operational Expenses

1. The State of Maine may enter into a collaborative agreement with a Vendor used by the NCA to acquire headstones and markers; however, Bureau officials will need to establish procurement agreements in accordance with the State's acquisition laws.
2. Upon entering into a collaborative agreement with a Vendor of headstones and markers, the State will provide a headstone or marker at no cost to the Guard Members or Reservist as well as their eligible dependent that is eligible under Section 3 of these rules.

SECTION 6. Eligible Dependent

1. Eligible dependents are entitled to burial at the Cemetery when:
 - a. The spouse or surviving spouse of an eligible sponsor, even if that eligible sponsor 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 sponsor who had a subsequent remarriage to a person who is not a veteran or eligible sponsor when the surviving spouse's death occurred on or after January 1, 2000;
 - c. A minor child of an eligible sponsor. For purposes of this subdivision, a minor child is an unmarried child and:
 - i. Has not attained 21 years of age; or
 - ii. Has not attained 23 years of age and is enrolled in a full-time course of instruction at an educational institution offering an accredited postsecondary educational degree program; and
 - iii. An unmarried adult child of an eligible sponsor if that child became permanently physically or mentally disabled and incapable of self-support:
 1. Before attaining 21 years of age; or
 2. Before attaining 23 years of age, if supporting documentation exists, the adult child was enrolled in a full-time course of instruction at an educational institution offering an accredited postsecondary educational degree program.

SECTION 7: Internment Fee

1. Internment Fee:
 - a. Members or former members of the National Guard, State Military Forces, or the Reserve Components of the United States Armed Forces, and contracted Reserve Officer Training Corps Cadets of the United States Armed Forces that meet eligibility requirements as outlined in this Section 4(1)(a)-(e), will be interned at no cost to the person, spouse, or minor child.
 - b. Members or former members of the National Guard, State Military Forces, or the Reserve Components of the United States Armed Forces, and current Reserve Officer Training Corps Cadets of the United States Armed Forces that meet eligibility under Section 4(1)(f)-(g) will incur an Internment Fee as described in subparagraph 2 of this section, below.
2. The costs associated with internment shall be determined by the prevailing NCA plot allowance rate and the actual price of headstones or niche covers, as determined by a cooperative agreement with an NCA-approved Vendor, which cooperative agreement may be amended from time to time. NCA plot allowance is determined in accordance with 38 CFR § 3.1707. The current cooperative agreement for headstone or niche covers can be found on file with the State of Maine Department of Administrative and Financial Services, Division of Procurement Services. These costs are payable to the Bureau. The Director or his designee may require payment in advance of burial.
3. The Director may waive the internment fee and/or cover the headstone or other marker cost when the Director determines, in their sole discretion, that special and extenuating circumstances exist that may negatively and extraordinarily affect the eligible sponsor or dependent.

SECTION 8. Statutory Ineligibility

Pursuant to 37-B M.R.S. § 504(4)(H)(2024), a person convicted of certain crimes will not be eligible for interment within the Maine Veterans' Memorial Cemetery System. The Bureau cannot waive this limitation.

STATUTORY AUTHORITY:

37-B M.R.S. § 504(4)(B-1)(2024), enacted by P.L. 2021, ch. 593.

Burial Equity for Guards and Reserve Act (within the Consolidated Appropriations Act, 2022), Pub. L. No. 117-103, 136 Stat. 49, 1109-10, Div. CC, § 102.