

# MAINE STATE LEGISLATURE

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**LEGAL AND VETERANS AFFAIRS**

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**STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 302, L.D. 873, Bill, "An Act to Clarify Municipal Responsibility for the Maintenance of Veterans' Gravesites"

Amend the bill by striking out the title and substituting the following:

**'An Act to Clarify Responsibilities for the Maintenance of Veterans' Grave Sites'**

Further amend the bill by inserting after the title and before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**'Sec. 1. 13 MRSA §1101,** as amended by PL 1977, c. 255, §1, is further amended to read:

**§1101. Maintenance and repairs; municipality**

In any ancient burying ground, as referenced in Title 30-A,

2 section 5723, or public burying ground in which any Revolutionary  
3 soldiers or sailors or ~~soldier-or-sailer~~ veterans of the Armed  
4 Forces of the United State of America who served in-the-United  
5 States-Army,-Navy-or-Marine-Corps in any war is are buried, the  
6 town municipality in which said burying ground is located shall  
7 keep in good condition and repair, all graves, headstones,  
8 monuments or markers designating the burial place of said  
9 Revolutionary soldiers or sailors or ~~soldier-or-sailor-who-served~~  
10 in-the-United-States-Army,-Navy-or-Marine-Corps veterans of the  
11 Armed Forces of the United States of America who served in any  
12 war and shall keep the grass suitably cut and trimmed on such  
13 those graves during-the-summer-season from May 1st to September  
14 30th of each year. Towns-may-raise-and-appropriate-money-for-such  
15 purposes.-Each-said-town-shall-be-liable-to-a-penalty-of-not-more  
16 than-\$100-for-neglect-to-keep-in-good-condition-and-repair-all  
17 such-graves,-headstones,-monuments-and-markers-or-failing-to-keep  
18 the-grass-suitably-cut-and-trimmed-on-said-graves.

19 Sec. 2. 13 MRSA §§1101-A, 1101-B, 1101-C and 1101-D are  
20 enacted to read:

21 **§1101-A. Definition**

22 As used in this article, unless the context otherwise  
23 indicates, the following term has the following meaning.

24 1. **Ancient burying ground.** "Ancient burying ground" means  
25 a private cemetery established before 1880.

26 **§1101-B. Ancient burying grounds**

27 1. **Access to ancient burying grounds on privately owned**  
28 land. The owner of an ancient burying ground shall provide  
29 municipalities access necessary to perform the duties pursuant to  
30 section 1101 and Title 30-A, section 2901. Any unreasonable  
31 denial to provide municipalities access may result in the owner  
32 being held responsible for any fines, court costs and attorney's  
33 fees incurred by municipalities in legally obtaining access or  
34 for failing to meet the requirements of section 1101.

35 2. **Maintenance by landowner.** A person who owns a parcel of  
36 land that contains an ancient burying ground and chooses to deny  
37 access to the municipality shall assume the duties as described  
38 in section 1101 and Title 30-A, section 2901, subsection 1.  
39 Maintenance of an ancient burying ground by the owner exempts the  
40 municipality from performing the duties as described in section  
41 1101.

42 **§1101-C. Notice of responsibility**

2 When a municipality fails without good reason to maintain  
3 the good condition and repair of a grave, headstone, monument or  
4 marker or fails to keep the grass suitably cut and trimmed on any  
5 such grave pursuant to section 1101 and at least one of the  
6 municipal officers has had 14 days' actual notice or knowledge of  
7 the neglected condition, a penalty of not more than \$100 may be  
8 assessed on the municipality.

9 **§1101-D. Unorganized townships**

10 If an ancient burying ground or a public burying ground as  
11 described in section 1101 is located in an unorganized township,  
12 the county in which the township is located is subject to  
13 sections 1101, 1101-B and 1101-C.

14 **Sec. 3. 30-A MRSA §2901**, as amended by PL 1989, c. 211, is  
15 further amended to read:

16 **§2901. Decoration of veterans' graves on Memorial Day**

17 **1. Decoration of veterans' graves.** Each municipality, as  
18 directed by its municipal officers, shall annually ~~shall~~ decorate  
19 on ~~May--30th~~ the day Memorial Day is observed the graves of  
20 veterans of the Armed Forces of the United States of America with  
21 an American flag and appropriate ~~floral-decorations~~ flag holders.

22 ~~2.--Erection of flagpole as alternative.--Municipal officers~~  
23 ~~shall not be required to observe the requirements of subsection 1~~  
24 ~~in any cemetery when on May 30th an American flag is flown from a~~  
25 ~~flagpole of durable material.--Municipal officers shall actively~~  
26 ~~encourage any group of citizens or veterans' organizations to~~  
27 ~~erect suitable flagpoles in cemeteries where veterans are buried.~~

28 **3. No effect on individuals' right to decorate.** This  
29 section does not in any way affect the right of any friend or  
30 relative of a deceased veteran to decorate the grave.

31 **4. Bell ringing on Veterans Day.** Each municipality shall,  
32 unless it will cause the municipality to incur an additional  
33 expense, cause any public bell or clarion within its possession  
34 or control to be rung at 11:00 a.m. on Veterans Day, and the  
35 municipal officers of each municipality shall request that any  
36 other bell or clarion within the ~~town~~ municipality be rung  
37 voluntarily at 11:00 a.m. on Veterans Day, and shall take such  
38 steps as are necessary to properly coordinate public and  
39 volunteer events.

40 **5. Unorganized townships.** If veterans' graves as described  
41 in this section are located in an unorganized township, the  
42 county in which that unorganized township is located is subject  
43 to the provisions in this section.'

2 Further amend the bill by inserting at the end before the  
summary the following:

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#### FISCAL NOTE

8 This bill requires municipal or county officials to place  
individual flags for Memorial Day on the graves of all wartime  
10 veterans located in each municipality or unorganized township.  
The additional costs of this state mandate can not be determined  
12 at this time. Pursuant to the Mandate Preamble, the two-thirds  
vote of all members elected to each House exempts the State from  
14 the constitutional requirement to fund 90% of the additional  
local costs.'

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#### SUMMARY

20 This amendment clarifies the law pertaining to municipal and  
county responsibility for maintaining veterans' graves. It  
22 provides that a landowner who denies a municipality or county  
access to an ancient burying ground may be responsible for court  
24 costs and fees for legally obtaining access to the graves. This  
amendment also removes the municipality's or county's option of  
26 erecting a single flagpole instead of placing individual flags on  
each veteran's grave on Memorial Day. This amendment also adds a  
28 fiscal note to the bill.