

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2069

H.P. 1453

House of Representatives, December 21, 2007

### **An Act To Update Department of Defense, Veterans and Emergency Management Laws**

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Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2007. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative COTTA of China.  
Cosponsored by Senator SCHNEIDER of Penobscot and  
Representatives: GERZOFSKY of Brunswick, PATRICK of Rumford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 2005, c. 273, §1, is  
3 further amended to read:

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

6 (1) "Eligible dependent" means the wife, husband, surviving spouse, unmarried  
7 minor child, unmarried dependent child enrolled in secondary school or  
8 unmarried adult child who became incapable of self-support before reaching 18  
9 years of age on account of mental or physical disabilities.

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

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

12 (i) If discharged, received an honorable discharge or a general discharge  
13 under honorable conditions, provided that the discharge was not  
14 upgraded through a program of general amnesty;

15 (b) Served in the Maine National Guard and died as a result of injury,  
16 disease or illness sustained while serving on active state service as provided  
17 in chapter 3, subchapter 3; ~~or~~

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

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

24 **Sec. 2. 37-B MRSA §505, sub-§1-A**, as enacted by PL 2001, c. 439, Pt. QQ, §2,  
25 is amended to read:

26 **1-A. Financial assistance.** Financial assistance may be granted as follows.

27 A. The bureau may provide a grant of temporary assistance not to exceed \$200 per  
28 month and not to exceed \$600 in any 12-month period to a veteran ~~in~~ currently a  
29 resident of this State for a period of at least one year who has filed a valid claim for a  
30 veteran's pension, pending notification of the award of such a pension, if that veteran  
31 is not incarcerated and requests such assistance. For purposes of this paragraph,  
32 "claim for a veteran's pension" means a claim filed with the federal Veterans'  
33 Administration pursuant to 38 United States Code, Chapter 15.

34 B. The bureau may provide a grant of emergency assistance not to exceed \$500 to a  
35 veteran currently a resident of this State for a period of at least one year who suffers  
36 an emergency, such as the loss of that veteran's home to fire, flood or hurricane, that  
37 is not fully compensable by insurance; illness or the illness of an immediate family  
38 member; or a similar emergency. No more than \$1,000 in emergency assistance may  
39 be provided to a veteran in any 12-month period. For the purposes of this paragraph,

1 "veteran" has the same meaning as "eligible veteran" in section 504, subsection 4,  
2 paragraph A-1.

3 C. A veteran who requests either temporary assistance under paragraph A or  
4 emergency assistance under paragraph B and is denied such assistance may request a  
5 reconsideration and review of this decision by the director. The decision of the  
6 director is final and may not be appealed to a court.

7 D. The department may adopt rules to implement this subsection. Rules adopted  
8 pursuant to this paragraph are major substantive rules as defined in Title 5, chapter  
9 375, subchapter ~~H-A~~ 2-A.

10 **Sec. 3. 37-B MRSA §505, sub-§2, ¶A**, as amended by PL 2007, c. 167, §6, is  
11 further amended to read:

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

14 (1) "Child" means a natural child whose mother or father is or was a veteran or a  
15 child who was adopted prior to turning 18 years of age and whose adoptive  
16 mother or father is or was a veteran and the child who:

17 (a) Is at least 16 years of age;

18 (b) Has graduated from high school; and

19 (c) Enrolled in a degree program and was awarded benefits under this  
20 subsection prior to turning 22 years of age and is not over 25 years of age at  
21 the time of application for a benefit under this subsection the child's 22nd  
22 birthday. If the child is unable to enroll in a degree program prior to turning  
23 22 years of age due to service in the United States Armed Forces, then the  
24 child may apply to begin this benefit until reaching 26 years of age. Other  
25 requirements must be met as described in paragraph F.

26 "Child" also means a stepchild who is a member of a veteran's household either at  
27 the time of application or, in the event of the veteran's death, at the time of death,  
28 and who continues as a member of the household after the death of the veteran.  
29 At least 5 years must have elapsed since the veteran married the parent of the  
30 stepchild before the stepchild is eligible for educational benefits, and the  
31 biological parent of the stepchild must reside in the veteran's household while the  
32 stepchild receives educational benefits.

33 (2) "Spouse" means the person currently legally married to a living veteran or  
34 the unremarried widow or widower of a deceased veteran, not previously  
35 divorced from that veteran.

36 Awards under the educational benefits program are authorized to provide benefits  
37 to only one spouse per veteran.

38 (3) "Veteran" means any person who served in the military or naval forces of the  
39 United States and ~~entered the service from this State or resided in~~ has been a  
40 resident of this State for 5 years immediately preceding application for aid and, if

1 living, continues to reside in this State throughout the duration of benefits  
2 administered under the educational benefits program and who:

3 (a) Has a total permanent disability resulting from a service-connected  
4 disability as a result of service;

5 (b) Was killed in action;

6 (c) Died from a service-connected disability as a result of service;

7 (d) At the time of death was totally and permanently disabled due to service-  
8 connected disability, but whose death was not related to the service-  
9 connected disability; or

10 (e) Is a member of the Armed Forces on active duty who has been listed for  
11 more than 90 days as missing in action, captured or forcibly detained or  
12 interned in the line of duty by a foreign government or power.

13 The continuous residency requirement of this subparagraph does not apply to a  
14 person who is receiving educational benefits under this chapter on or before  
15 January 1, 2006.

16 **Sec. 4. 37-B MRSA §505, sub-§2, ¶E**, as amended by PL 2007, c. 167, §7, is  
17 further amended to read:

18 E. Spouses of veterans who are attending state-supported postsecondary vocational  
19 schools or institutions of collegiate grade must be admitted free of tuition including  
20 mandatory fees and lab fees for a certificate program or an associate's, bachelor's or  
21 master's degree program. Room and board may not be waived. Spouses are entitled  
22 to receive up to ~~8 semesters~~ 120 credit hours of educational benefits and have 10  
23 years from the date of first entrance to complete the program.

## 24 SUMMARY

25 This bill amends various veterans' benefits. It expands burial eligibility to include  
26 Active Guard Reserve soldiers whose deaths are determined to be in the line of duty. It  
27 also clarifies eligibility requirements for financial assistance and educational benefits for  
28 veterans and their spouses and dependents.