

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1327

H.P. 931

House of Representatives, March 31, 2009

### **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.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TRINWARD of Waterville.  
Cosponsored by Senator PLOWMAN of Penobscot and  
Representative: CORNELL du HOUX of Brunswick.

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

2 Sec. 1. 37-B MRSA §460 is enacted to read:

3 **§460. Behavior that is prejudicial to good order and discipline of military forces or**  
4 **that discredits military forces**

5 Any person subject to this Code who behaves in a manner that is prejudicial to the  
6 good order and discipline of the military forces or that discredits the military forces must  
7 be punished as a court-martial may direct.

8 Sec. 2. 37-B MRSA §461 is enacted to read:

9 **§461. Violations of state or federal criminal law**

10 Any person subject to this Code who violates any state or federal criminal law must  
11 be punished as a court-martial may direct.

12 Sec. 3. 37-B MRSA §503, sub-§1, as amended by PL 2001, c. 662, §61, is  
13 further amended to read:

14 1. **Employment of personnel.** The director may employ, subject to approval of the  
15 appointing authority and the Civil Service Law, the personnel necessary to administer this  
16 chapter. The director may employ a ~~director~~ superintendent of the cemetery system, a  
17 veteran claims specialist and veteran ~~advocates~~ service officers. The director and other  
18 employees referred to in this subsection must be veterans as defined by 38 United States  
19 Code, Section 101 (2) who were separated with an honorable discharge.

20 Sec. 4. 37-B MRSA §504, sub-§2, as amended by PL 2001, c. 662, §63, is  
21 further amended to read:

22 2. **Superintendent of the cemetery system.** The director, with approval of the  
23 appointing authority, shall appoint a competent and trustworthy ~~director~~ superintendent of  
24 the cemetery system and shall arrange for personnel, material and equipment necessary  
25 for adequate maintenance of the cemeteries.

26 Sec. 5. 37-B MRSA §505, sub-§2, ¶H is enacted to read:

27 H. A school that provides tuition assistance pursuant to this subsection shall provide  
28 any information, such as enrollment verification, current contact information,  
29 semester grade point average, accumulated credit hours and transcripts, to the bureau  
30 as necessary for the bureau to properly administer the educational benefits described  
31 in this subsection in accordance with current laws.

32 Sec. 6. 37-B MRSA §508, as enacted by PL 2001, c. 662, §71, is amended to  
33 read:

1       **§508. Veteran service officers**

2       Veteran advocates service officers shall serve, assist and advocate for all veterans. A  
3       veteran advocate service officer must be trained and conversant on the issues, benefits  
4       and definitions affecting all veterans, including atomic, Vietnam, Desert Storm and  
5       female veterans.

6       **Sec. 7. 37-B MRSA §536** is enacted to read:

7       **§536. Case review; confidentiality**

8       The commission may act as a panel to review cases involving Maine National Guard  
9       noncombat death and disability. When the commission or a subcommittee of the  
10       commission acts as a case review panel, the proceedings, records, data, documents and  
11       other matters submitted to or considered by the panel are confidential, not subject to  
12       disclosure under any state law, subpoena, discovery or introduction into evidence in a  
13       civil or criminal action and must be sealed. The conclusions of a case review panel are  
14       public and must be disclosed upon request.

15       **Sec. 8. 37-B MRSA §601**, as amended by PL 2007, c. 167, §9, is further amended  
16       to read:

17       **§601. Home established; purpose**

18       There must be public homes for veterans in Maine known as "Maine Veterans'  
19       Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home  
20       located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located  
21       in Bangor not to exceed 120 beds, of which 40 beds are dedicated to senile dementia  
22       patients, and a home located in South Paris not to exceed 90 beds, of which 30 beds are  
23       dedicated to senile dementia patients, may be constructed if federal Veterans'  
24       Administration funds are available to meet part of the costs of each facility for  
25       construction or operation. In addition, a home located in Machias not to exceed 60 beds  
26       may be constructed if federal Veterans' Administration funds or funds from any other  
27       state, federal or private source are available to meet part of the costs of the facility for  
28       construction or operation, except that the Machias home may not begin operation prior to  
29       July 1, 1995 and the construction and funding of the Machias home may not in any way  
30       jeopardize the construction, funding or financial viability of any other home. The Maine  
31       Veterans' Homes also are authorized to provide nonnursing facility care and services to  
32       Maine veterans if approved by appropriate state and federal authorities. The Board of  
33       Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any  
34       nonnursing facility care and services using any funds available for that purpose, except  
35       for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are  
36       authorized to construct community-based outpatient clinics for Maine veterans in  
37       cooperation with the United States Department of Veterans Affairs and may construct and  
38       operate veterans hospice facilities, veterans housing facilities and other facilities  
39       authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds.  
40       Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded  
41       depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds  
42       received by the Maine Veterans' Homes and available for that purpose. The primary

1 purpose of the Maine Veterans' Homes is to provide support and care for honorably  
2 discharged veterans who served on active duty in the United States Armed Forces or who  
3 served in the Reserves of the United States Armed Forces on active duty for other than  
4 training purposes ~~or are entitled to retired pay under 10 United States Code, Chapter 1223~~  
5 ~~regardless of the age of such persons.~~

## 6 SUMMARY

7 This bill provides that any person subject to the Maine Code of Military Justice who  
8 behaves in a manner that is prejudicial to the good order and discipline of the military  
9 forces or that discredits the military forces must be punished as a court-martial may direct  
10 and that any such person who violates any state or federal criminal law must be punished  
11 as a court-martial may direct.

12 This bill also changes the title of the director of the Maine Veterans' Memorial  
13 Cemetery System to superintendent and the title of veteran advocate to veteran service  
14 officer. It requires schools that provide tuition assistance pursuant to the Maine Revised  
15 Statutes, Title 37-B, section 505, subsection 2 to provide the Department of Defense,  
16 Veterans and Emergency Management, Bureau of Maine Veterans' Services certain  
17 information so that the bureau may properly administer certain educational benefits. It  
18 clarifies Maine Veterans' Homes eligibility requirements.

19 This bill also authorizes the Commission to Protect the Lives and Health of Members  
20 of the Maine National Guard to act as a panel to review cases involving death or  
21 disability of members of the Maine National Guard. When the commission or a  
22 subcommittee of the commission acts as such a review panel, its proceedings and records  
23 are confidential and are not subject to subpoena, discovery or introduction in a civil or  
24 criminal action. Conclusions of the panel may be disclosed, but no confidential  
25 information may be released.