



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1176

S.P. 362

In Senate, March 12, 2019

An Act Regarding Caretakers of Ancient Burying Grounds and Access to Ancient Burying Grounds

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative McCREIGHT of Harpswell and
Senators: BELLOWS of Kennebec, President JACKSON of Aroostook, LAWRENCE of York,
Representatives: BERRY of Bowdoinham, BRYANT of Windham, DOUDERA of Camden,
EVANGELOS of Friendship.

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

2 **Sec. 1. 13 MRSA §1101**, as amended by PL 2013, c. 524, §1, is further amended
3 to read:

4 **§1101. Maintenance and repairs; municipality**

5 **1. Grave sites of veterans in ancient burying grounds.** In any ancient burying
6 ground, as referenced in Title 30-A, section 5723, the municipality in which that burying
7 ground is located, in collaboration with veterans' organizations, cemetery associations,
8 civic and fraternal organizations, descendants of veterans buried in the ancient burying
9 ground and other interested persons, shall keep in good condition all graves, headstones,
10 monuments and markers designating the burial place of Revolutionary soldiers and
11 sailors and veterans of the Armed Forces of the United States. To the best of its ability
12 given the location and accessibility of the ancient burying ground, the municipality, in
13 collaboration with veterans' organizations, cemetery associations, civic and fraternal
14 organizations, descendants of veterans buried in the ancient burying ground and other
15 interested persons, shall keep the grass, weeds and brush suitably cut and trimmed on
16 those graves from May 1st to September 30th of each year. A municipality may
17 designate a caretaker to whom it delegates for a specified period of time the
18 municipality's responsibilities regarding an ancient burying ground. If a municipality is
19 unable to care for veterans' burial places in an ancient burying ground or does not
20 designate a caretaker, descendants of veterans buried in the ancient burying ground may
21 designate a caretaker to whom is delegated for a specified period of time the
22 municipality's responsibilities regarding the ancient burying ground. The caretaker's
23 name and contact information must be registered with the municipality.

24 **1-A. Grave sites of individuals who are not designated as veterans in ancient**
25 **burying grounds.** To the best of its ability given the location and accessibility of the
26 ancient burying ground, the municipality in which an ancient burying ground is located
27 may, in collaboration with veterans' organizations, cemetery associations, civic and
28 fraternal organizations, descendants of individuals buried in the ancient burying ground
29 and other interested persons, keep the grass, weeds and brush suitably cut and trimmed
30 from May 1st to September 30th of each year on all graves, headstones, monuments and
31 markers in the ancient burying ground not designating the burial place of Revolutionary
32 soldiers and sailors and veterans of the Armed Forces of the United States. A
33 municipality may designate a caretaker to whom it delegates for a specified period of
34 time the municipality's functions regarding an ancient burying ground. If a municipality
35 is unable to care for an ancient burying ground or does not designate a caretaker,
36 descendants of individuals buried in the ancient burying ground may designate a
37 caretaker to whom is delegated for a specified period of time the municipality's functions
38 regarding the ancient burying ground. The caretaker may, at the direction and expense of
39 the descendants, provide care and maintenance of the headstones, monuments and
40 markers in the ancient burying ground. The caretaker's name and contact information
41 must be registered with the municipality.

42 **2. Grave sites of veterans in public burying grounds.** A municipality, cemetery
43 corporation or cemetery association owning and operating a public burying ground shall,

1 in collaboration with veterans' organizations, cemetery associations, civic and fraternal
2 organizations and other interested persons, keep the grave, headstone, monument or
3 marker designating the burial place of any veteran of the Armed Forces of the United
4 States in that public burying ground in good condition and repair from May 1st to
5 September 30th of each year.

6 A municipality in which a public burying ground is located may, in collaboration with
7 veterans' organizations, cemetery associations, civic and fraternal organizations,
8 descendants of individuals buried in the public burying ground and other interested
9 persons, adopt standards of good condition and repair to which grave sites of veterans of
10 the Armed Forces of the United States must be kept. The standards at a minimum must
11 detail how to maintain the grave, grass and headstones.

12 If a municipality does not adopt standards, the municipality, cemetery corporation or
13 cemetery association shall apply the following standards of good condition and repair:

- 14 D. Ensure that grass is suitably cut and trimmed;
- 15 E. Keep a flat grave marker free of grass and debris; and
- 16 F. Keep the burial place free of fallen trees, branches, vines and weeds.

17 **Sec. 2. 13 MRSA §1101-B**, as amended by PL 2013, c. 421, §2 and c. 524, §3, is
18 further amended to read:

19 **§1101-B. Ancient burying grounds**

20 **1. Access to ancient burying grounds.** The owner of an ancient burying ground or
21 a person who owns a parcel of land that contains an ancient burying ground shall provide
22 a municipality or ~~its~~ the caretaker designated pursuant to section 1101 access necessary to
23 perform the duties pursuant to section 1101 and Title 30-A, section 2901. A municipality
24 or the caretaker designated pursuant to section 1101 may access an ancient burying
25 ground surrounded by privately owned land annually or as often as determined necessary
26 by the municipality or the designated caretaker to provide care and maintenance of the
27 headstones, monuments and markers so as to protect and preserve the ancient burying
28 ground. Any unreasonable denial ~~to provide~~ of access may result in the owner being held
29 responsible for any fines, court costs and attorney's fees incurred by municipalities in
30 legally obtaining access or for failing to meet the requirements of section 1101.

31 **2. Maintenance by landowner.** A person who owns a parcel of land that contains
32 an ancient burying ground and chooses to deny access to the municipality or ~~its~~ the
33 caretaker designated pursuant to section 1101 shall assume the duties as described in
34 section 1101 and Title 30-A, section 2901, subsection 1. Maintenance of an ancient
35 burying ground by the owner or a person who owns a parcel of land that contains an
36 ancient burying ground exempts the municipality from performing the duties as described
37 in section 1101.

38 A municipality or ~~its~~ the caretaker designated pursuant to section 1101 to carry out the
39 municipality's functions regarding an ancient burying ground must have access to any
40 ancient burying ground within the municipality in order to determine if the ancient
41 burying ground is being maintained in good condition and repair. If an ancient burying

1 ground or a veteran's grave within an ancient burying ground is not maintained in good
2 condition and repair, the municipality may take over the care or appoint a caretaker to
3 whom it delegates the municipality's functions regarding an ancient burying ground. If a
4 municipality is unable to care for an ancient burying ground or does not appoint a
5 caretaker, descendants of individuals buried in the ancient burying ground may appoint a
6 caretaker to whom is delegated the municipality's functions regarding an ancient burying
7 ground. The caretaker's name and contact information must be registered with the
8 municipality.

9

SUMMARY

10 This bill allows a descendant of an individual or a veteran buried in an ancient or
11 public burying ground to appoint a caretaker to maintain the burying ground when the
12 municipality is unable to care for the burying ground or to appoint a caretaker.