

DECEASED SERVICE PERSONS, FUNERAL EXPENSE

Act of Jun. 11, 1935, P.L. 326, No. 149

Cl. 16

AN ACT

Relating to counties of the first class; defining deceased service persons; providing for contributions by the county to the funeral expenses for such persons and their widows; providing for the erection and care of markers, headstones, and flags, and for the compilation of war records.

Section 1. Be it enacted, &c., Definition.--The term "deceased service persons," as used in this act, shall be defined and construed to mean and include:

(1) Any deceased person, who at the time of his or her death, was serving (whether or not in a combat zone) in the Army, Navy, Marine Corps or Coast Guard during any war or armed conflict in which the United States has been, is now or shall hereafter be engaged, or who, at the time of his or her death, was serving in a zone where a campaign or state or condition of war or armed conflict then existed, in which the United States was, is or shall be a participant. The existence of a campaign or state or condition of war or armed conflict, and the participation of the United States therein, as well as the fact that the deceased person served in a zone where such campaign or state or condition of war or armed conflict existed, shall in each case be established by the records of the War or Naval Departments of the Federal Government; or

(2) Any deceased person who had so served at any time during his or her life, and whose separation from such service was honorable, whether by discharge or otherwise, or who at the time of his or her death was continuing in such service after the cessation of the war, armed conflict, campaign or state or condition of war during or in which he or she served; or

(3) Any deceased person who was in active service in the militia of the State of Pennsylvania, under and in pursuance of any proclamation issued by the Governor, during the Civil War and not duly mustered into the service of the United States, and has been honorably discharged or relieved from such service.

The term "legal residence" as used in this act shall be construed as synonymous with "domicile," and is hereby defined as actual residence, coupled with intention that it shall be permanent, or a residence presently fixed with no definite intention of changing it or of returning to a former residence at some future period. Legal residence is to be determined by abode of person, and his or her intention to abandon his or her former domicile and establish a new one. The legal residence of a deceased service person shall be prima facie in the county where he or she made his or her abode at the time of his or her death.

(1 amended Dec. 13, 1955, P.L.844, No.248)

Section 2. Sum to be Spent.--Any county of the first class of this State is hereby authorized and directed to contribute the sum of seventy-five dollars (\$75.00) and may contribute an additional sum of twenty-five dollars (\$25.00) towards the funeral expenses of each deceased service person in the cases enumerated below, where in each case application therefor is made within one year after the date of his or her death:

Provided, That in the case of any deceased service person who died while in the service, application need not be made within one year after the date of his or her death, but may be made at any time thereafter, if the reason for the delay is satisfactory to the county. Payment shall be made under the

following circumstances: (Par. amended Nov. 5, 1971, P.L.512, No.121)

(1) Where the deceased service person at the time of his or her death had his or her legal residence in the county, whether or not he or she died in the county, and whether or not he or she was buried in the county. It is hereby declared to be the intent of the General Assembly that every deceased service person having a legal residence in any county of the first class in this Commonwealth at the time of his or her death shall be entitled to the benefits of this section, regardless of where he or she may have died or where he or she may be buried, and that the liability therefor shall be on the county where such deceased service person shall have had his or her legal residence at the time of his or her death.

(2) Where the deceased service person died and was buried in the county, but at the time of his death did not have a legal residence within this Commonwealth, if the county commissioners of the county where he died shall be notified in writing by any organization of veterans that the body is unclaimed by relatives or friends and upon investigation shall find such condition to exist.

(3) When a deceased service person has died, while a member of the Pennsylvania Soldiers' and Sailors' Home at Erie, Pennsylvania, and such home incurs all funeral expenses and buries such person in a cemetery in the City of Erie, Pennsylvania, or the home furnishes clothing, casket, and shipping case, and ships the body to the county from which he was admitted to the home, the county from which he was admitted shall reimburse and pay to the Pennsylvania Soldiers' and Sailors' Home, the amount of seventy-five dollars (\$75.00), or so much thereof, as was actually expended by such home.

(2 amended May 9, 1949, P.L.974, No.278)

Section 3. Burial of Widows of Deceased Service Persons.--Upon due application and proof, such county is hereby authorized and directed to contribute the sum of seventy-five dollars (\$75.00) and may contribute an additional sum of twenty-five dollars (\$25.00) from the county funds toward the funeral expenses of any widow of any male, deceased service person who, at the time of her death, had a legal residence in the county, whether or not she died in the county, and whether or not she was buried in the county: Provided, however, That the county shall not contribute any moneys toward the funeral expenses of any such widow of a deceased service person who had remarried after the death of such deceased service person, nor unless application for the payment of such moneys shall be made within one year after the date of the death of such widow of a deceased service person.

(3 amended Nov. 5, 1971, P.L.512, No.121)

Compiler's Note: Section 9(c) of Act 173 of 1978 provided that section 3 is repealed insofar as it is inconsistent with 1 Pa.C.S. § 2301(c) (relating to equality of rights based on sex).

Section 4. Payments.--It shall be the duty of each such county in this State to draw a warrant upon the treasurer of their county in the sum of seventy-five dollars (\$75.00), or one hundred dollars (\$100.00) if the additional sum of twenty-five dollars (\$25.00) is authorized, for each body buried in accordance with the provisions of this act, to be paid out of the funds of the county, and such warrants shall be made payable to the applicant or applicants if the application shows that the funeral expenses have been paid, otherwise to the

undertaker performing the services, with notice to the applicant.

Application for such contribution shall be made by the personal representative of such deceased service person or deceased service person's widow, if there be such personal representative, if no such personal representative has qualified, then by any next of kin, individual or veterans' organization who, or which, assumes responsibility for the cost of burial of the body, and shall be sustained by affidavit as to the facts.

Such application shall be on forms prescribed by the Department of Military Affairs, and shall set forth whether or not the funeral expenses have been paid. The application shall have attached thereto, a certified copy of the death certificate, and a certification by the undertaker, who had charge of the burial of the body, and to the effect that the undertaker did render such service.

(4 amended Oct. 4, 1978, P.L.1013, No.219)

Compiler's Note: Section 9(c) of Act 173 of 1978 provided that section 4 is repealed insofar as it is inconsistent with 1 Pa.C.S. § 2301(c) (relating to equality of rights based on sex).

Section 5. Markers for Graves; Headstones.--The county commissioners of any such county of this State shall, from time to time, as is considered expedient by the commissioners, procure appropriate markers for the graves of deceased service persons and the graves of all other deceased persons who served in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine during World War II or any organization officially connected therewith and whose separation from such service was honorable, whether by discharge or otherwise. Such markers shall be of cast bronze, which term shall mean a proper composition of the following metals in the following proportions: Copper eighty-five per centum, tin five per centum, zinc five per centum, and lead five per centum, or aluminum or a suitable substitute material.

The county commissioners of each county of the first class are hereby authorized and directed to place a marker upon the grave of each deceased service person and the graves of all other deceased persons who served in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine during World War II or any organization officially connected therewith and whose separation from such service was honorable, whether by discharge or otherwise, who, at the time of his or her death, had his or her legal residence in the county, whether or not he or she died in the county and whether or not he or she was buried in the county, and upon the grave of each deceased service person buried in the county who at the time of his or her death did not have a legal residence within this Commonwealth. When such deceased service person shall have been a veteran of any war for which the Government of the United States issued discharge buttons, the markers designated for their graves shall include a facsimile of said discharge button. When such deceased service person shall have been a veteran of the Korean Conflict, the markers designated for their graves shall include a circular emblem with the word "Korea, U. S., 1950-1953" in the border thereof, and shall incorporate the insignia of the Army, Navy, Marine Corps, Air Force, and Coast Guard, in the form approved by the Pennsylvania State Veterans' Commission.

It shall also be the duty of the county commissioners of such county upon, or at any time subsequent to, the death of

any deceased service person who, at the time of his or her death, had his or her legal residence in the county, on application as hereinafter provided, to cause a headstone or bronze memorial tablet to be placed at the head of, or on the grave of, each such deceased service person and the graves of all other deceased persons who served in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine during World War II or any organization officially connected therewith and whose separation from such service was honorable, whether by discharge or otherwise. Such headstone shall contain his or her name and the rank and organization to which he or she belonged or in which he or she served in letters raised or cut in at least three-sixteenths of an inch deep. Such headstone shall be of either marble or granite, and to be placed or set in a concrete base at least three feet deep, or if a headstone has been provided for such grave by the United States Government, the county commissioners shall provide such concrete base therefor, or if lettering only on an existing memorial is desired by the family, the county commissioners shall provide such lettering. In the event the body of any deceased service person, either cannot be or will not be returned to the United States of America, it shall be the duty of the county commissioners to cause a headstone to be placed in the family plot of such deceased service person. Said headstone shall have inscribed thereon (a) the name, rank and organization of such deceased service person, (b) the name of the country, location or manner in which such person lost his or her life, and (c) the cemetery or location in which the body, if buried, was finally laid to rest. Application therefor shall in each case be made on forms prescribed by the Department of Military Affairs and may be made by any relative of the deceased service person or by a friend, provided in the latter case there is no objection by the nearest relative and the application is approved by an organization of veterans of any war in which the United States has been, is now or shall hereafter be engaged. The expense in each case shall be borne by the county in which the deceased service person had his or her legal residence at the time of his or her death, whether or not he or she died in the county and whether or not he or she was buried in the county: Provided, however, That the expense shall not exceed the sum of one hundred dollars (\$100) for each headstone or concrete base or lettering or bronze memorial tablet, and the county commissioners of each such county, acting under this section, shall draw a warrant on the treasurer of their county for the payment of said expense in favor of the party or parties furnishing such headstone or concrete base or lettering or bronze memorial tablet: Provided, however, That in cases of dispute concerning the legal residence of a deceased service person the county in which a deceased service person is buried shall perform the duties hereinbefore set forth. No such payment or payments shall be made unless the application therefor shall be approved before the commencement of the project by the county commissioners.

(5 amended June 11, 2008, P.L.168, No.21)

Section 5.1. Proof of Service, Et Cetera.--In each case where application is made for a contribution towards the funeral expenses of a deceased service person, or the widow of a deceased service person, or for a headstone or concrete base or lettering or bronze memorial tablet, the county commissioners shall before expending any money therefor require proof of the following facts:

(1) The service of the deceased service person which entitles him or his widow to the benefits of this act, which proof shall be by the production of an honorable discharge or other official record showing service during any war in which the United States is or was engaged, or by the records of the War or Naval Departments of the Federal Government, or by copies thereof filed in the Department of Military Affairs showing the existence of a campaign or state or condition of war, the participation of the United States therein, and the service of the deceased service person in a zone where such campaign or state or condition of war existed.

(2) The death of the deceased service person.

(3) In the case of the burial of the widow of a deceased service person, the death of such widow and the fact that she was married to the deceased service person at the time of his death, and that she has not since remarried. The proofs required by clause (1) and (2) of this section shall also be required in such cases.

(4) Except in cases where persons not having a legal residence within this Commonwealth are entitled to any of the benefits of this act, the legal residence within the county of the deceased service person or of the widow of a deceased service person, as the case may be.

Death shall in all cases be proved by death certificate, where the same is procurable, otherwise by affidavit of one or more persons personally acquainted with the deceased, and the fact of his or her death, or by proof of the record of death kept by the attending physician, or the record of burial kept by the undertaker by whom he or she was buried, or by the church burial association or cemetery company maintaining the graveyard, burial ground or cemetery in which he or she was buried.

Where any proof required by this section has been furnished to the county commissioners, no further proof of the same facts shall be required in order to obtain any other benefit under the provisions of this act.

(5.1 added May 21, 1943, P.L.294, No.138)

Compiler's Note: Section 9(c) of Act 173 of 1978 provided that section 5.1 is repealed insofar as it is inconsistent with 1 Pa.C.S. § 2301(c) (relating to equality of rights based on sex).

Section 6. Care of Graves and Markers.--The county commissioners of each county of the first class in this State shall, at all times, see that the graves and tombstones of all deceased service persons, who are buried in such county, receive proper and fitting care, and may employ all necessary assistance to carry out the provisions of this section. The expense of the care of such graves and tombstones shall be borne by the respective counties where said graves are located, except where suitable care is otherwise provided. Money so appropriated may be expended directly by the county commissioners, or paid over to the person, firm, association or corporation owning, or controlling, any cemetery or burial place in the county where any such grave is situated, but the sum so paid over in any year shall not exceed for each grave, the charge for the annual care and maintenance of like graves in the same cemetery, or if no such fixed charge is established in that cemetery, it shall not exceed the sum charged in other cemeteries in the same county for like service.

Section 7. Flags to Decorate Graves.--It shall be the duty of the county commissioners to provide flags on each Memorial

Day with which to decorate the graves of all deceased service persons and the graves of all other deceased persons who served in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine during World War II or any organization officially connected therewith and whose separation from such service was honorable, whether by discharge or otherwise, buried within the county. The flags to be used for said purposes shall be of one standard size and shall be purchased at the expense of the county from moneys in the county treasury.

Such flags shall be furnished to the various veterans' organizations in such numbers as they shall require for their respective communities.

The moneys expended by any such county, under the provisions of this section, shall be in addition to moneys appropriated by counties for Memorial Day purposes.

The authorities in charge of any cemetery are authorized to remove such flags, when the same become unsightly or weather-worn, at any time not less than ninety days after the flags have been placed on graves.

(7 amended June 11, 2008, P.L.168, No.21)

Section 8. Compilation of War Records.--The county commissioners of each county of the first class in the State are hereby authorized and directed, at the expense of the county, to compile a record of the burial places, within such county, of deceased service persons. Such record, so far as practicable, shall indicate the name of each such person, the service in which he or she was engaged, the number of the regiment or company or command, the rank and period of service, the name and location of the cemetery or other place in which his or her body is interred, the location of the grave in such cemetery or other place, and the character of headstone or other marker, if any, at such grave. Such record shall be known as the "Veterans' Grave Registration Record of County," and shall be a public record open to inspection during business hours.

(8 amended June 21, 1947, P.L.898, No.372)

Section 9. Information for War Records.--The county commissioners of each county of the first class shall cause record blanks to be prepared, according to forms furnished by the Department of Military Affairs, whereby the information required for such record may be transmitted to them. Every person, firm, association or corporation, including a municipal corporation, owning or controlling any cemetery or burial place within a county of the first class, in which are interred the bodies of deceased service persons, shall file with the county commissioners of such county, in which such cemetery is located, a certificate on the record blanks, provided by said county commissioners, of the facts required for such record as far as the same are within the knowledge of such person, firm, association, corporation, or the agents thereof. The county commissioners shall cause record blanks to be distributed to such persons, firms, associations, and corporations, as they deem advisable, with the request that such information be transmitted to them. Any such person, firm, association or corporation, except municipal corporations, upon receipt of such blanks or forms who shall refuse or neglect to fill out and transmit to the county commissioners such blanks or forms within six months after receipt of same, shall be subject to a fine, upon conviction in summary proceedings, of one hundred dollars (\$100.00).

(9 amended June 21, 1947, P.L.898, No.372)

Section 10. Voluntary Assistance by Veterans' Organizations.--For the purpose of locating the burial places of deceased service persons, the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, the American Legion, the Disabled American Veterans, the Veterans of World War I of the U. S. A., Inc., the American Veterans of World War II (AMVETS), the Marine Corps League and The Italian American War Veterans of the United States, Incorporated, through their local camps, posts, and branches in this State, are authorized, without expense to the county, to collect the required data, and prepare and file with the county commissioners, certificates embodying the information provided for in this section.

(10 amended June 6, 1963, P.L.85, No.59)

Section 11. Directors of Veterans' Affairs.--For the purpose of carrying into effect the provisions of this act, the county commissioners shall appoint a director of veterans' affairs who shall receive such compensation as the salary board may fix. It shall be the duty of the director of veterans' affairs to:

(1) Assist the county commissioners in administering the provisions of this act relating to the burial of deceased service persons and their widows, and to furnishing markers and placing headstones on their graves.

(2) Assist war veterans and their families in securing their rights as such in matters relating to their person, property, and care of family under any of the laws of this Commonwealth and of the United States, and for such services the grave registrar shall be entitled to his expenses incurred therein and additional compensation, and both expenses and compensation shall be subject to the approval of the salary board or county commissioners, as the case may be.

(3) Carry into effect the provisions of this act relating to the compilation of war records.

(4) Perform all other duties heretofore performed by the veterans' grave registrar.

The veterans' grave registrar of each county in office on the effective date of this act, shall continue in the office of director of veterans' affairs, and as such be subject to the provisions of existing law.

(11 amended June 21, 1947, P.L.898, No.372)

Compiler's Note: Section 9(c) of Act 173 of 1978 provided that section 11 is repealed insofar as it is inconsistent with 1 Pa.C.S. § 2301(c) (relating to equality of rights based on sex).

Section 12. State Association of Directors of Veterans' Affairs.--The director of veterans' affairs of each county of the first class is hereby authorized to join with the directors of veterans' affairs of other counties of this Commonwealth in organizing themselves into a State association with power to hold annual meetings at such time and place within the State as they may designate for the purpose of securing more uniformity and cooperation in the conduct of their offices and improving their service to veterans.

Each director of veterans' affairs shall be allowed all reasonable expenses, including hotel bills and traveling expenses, actually incurred going to, attending and returning from, any annual meeting of the association, but not in excess of fifty dollars (\$50.00) in any one year, which shall be paid by the county of which he or she is an officer by orders drawn on the treasurer thereof. The time spent in attending such meetings shall not be more than three (3) days, exclusive of

the time employed in traveling thereto and therefrom. The expenses of the annual meeting of the association, including any necessary amount for printing, committee meetings, and stenographic services, shall be paid by the proper counties, but shall not exceed twenty-five dollars (\$25.00) for each county, the director of veterans' affairs of which is a member of said association.

(12 added June 21, 1947, P.L.898, No.372)

Section 13. All acts and parts of acts inconsistent herewith are hereby repealed.

(13 amended June 21, 1947, P.L.898, No.371)