

# Montana Code Annotated 2017

## TITLE 10. MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES

### CHAPTER 2. VETERANS

#### Part 1. Board of Veterans' Affairs

## Disposal Of Unclaimed Veterans' Remains -- Limits On Liability Of Mortuaries And Veterans' Service Organizations -- Notice -- Definitions

**10-2-111. Disposal of unclaimed veterans' remains -- limits on liability of mortuaries and veterans' service organizations -- notice -- definitions.** (1) A mortuary is not liable for simple negligence in the disposition of the human remains or cremated remains of a veteran to a veterans' service organization for the purposes of interment by that organization if the mortuary complies with the provisions of this section.

(2) Except as provided in subsection (4)(b), in order for the immunity provided in subsection (1) to apply, a mortuary shall take the following action, alone or in conjunction with a veterans' service organization, to provide notice to the next of kin of the deceased veteran:

(a) give written notice by mail to the next of kin of the veteran for whom the address of the next of kin is known or can reasonably be ascertained by the mortuary giving the notice; or

(b) if the address of the next of kin is not known or cannot reasonably be ascertained, give notice to the next of kin by publication once each week for 3 successive weeks in a newspaper of general circulation:

(i) in the county of the veteran's residence; or

(ii) if the residence of the veteran is unknown, in the county in which the veteran died; or

(iii) if the county in which the veteran died is unknown, in the county in which the mortuary giving notice is located.

(3) The notice required by subsection (2) must include a statement to the effect that the remains of the veteran must be claimed by the veteran's next of kin within 6 months of the date of the first notice under subsection (2) and that if the remains are not claimed within that time, the remains may be given to a veterans' service organization for interment.

(4) (a) A mortuary must hold the unclaimed remains of a veteran for at least 6 months unless a nonprofit organization for veterans or a state or federal agency verifies in a writing provided to the mortuary that there are no surviving family members to claim the remains.

(b) If a nonprofit organization for veterans or a state or federal agency verifies in a writing provided to the mortuary that there are no surviving family members to claim the remains, the mortuary is not required to provide notice under subsection (2) and the mortuary is immediately covered by the protections in subsection (1).

(c) After retaining the unclaimed remains of a veteran for at least 6 months or after verification by a nonprofit organization for veterans or a state or federal agency that there are no surviving family members to claim the remains, the mortuary may release the remains to a veterans' service organization for interment.

(5) A veterans' service organization receiving human remains or cremated remains of a veteran from a mortuary for the purposes of interment is not liable for simple negligence in the custody or interment of the remains if the veterans' service organization interments and does not scatter the remains and does not know and has no reason to know that the remains do not satisfy the requirements of subsection (1)(a) or (1)(c) or that the mortuary has not complied with the notice requirements of subsection (2)(a) or (2)(b), as applicable.

(6) By accepting the remains of a veteran for interment, a veterans' service organization does not agree to pay storage or other charges applied by the mortuary for the keeping or preservation of the remains.

(7) A veterans' service organization accepting remains pursuant to this section shall take all reasonable steps to inter the remains in a veterans' cemetery. However, the organization is not liable for any additional expense for interment in a veterans' cemetery and interment in a veterans' cemetery is not a condition for immunity under this section.

(8) (a) As used in this section, the following definitions apply:

(i) "Mortuary" includes a mortuary as defined in **37-19-101**, a funeral home, a funeral director, a mortician, an undertaker, or an employee of any of the individuals or entities.

(ii) "Veterans' service organization" means an association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States congress, including the disabled American veterans, veterans of foreign wars, the American legion, the legion of honor, and the Vietnam veterans of America. The term includes a member or employee of any of those associations or entities.

(b) Terms not defined in this subsection (8) have the meaning given them in **37-19-101**.

**History:** En. Sec. 1, Ch. 202, L. 2001; amd. Sec. 1, Ch. 112, L. 2017.