

105TH CONGRESS  
2D SESSION

# H. R. 3211

To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1998

Mr. STUMP (for himself, Mr. EVANS, Mr. EVERETT, Mr. CLYBURN, Mr. QUINN, Mr. FILNER, Mr. BILIRAKIS, Mr. GUTIERREZ, Mr. COOKSEY, Ms. BROWN of Florida, Mr. HUTCHINSON, Mr. DOYLE, Mr. HAYWORTH, Mr. MASCARA, Mr. LAHOOD, Mr. PETERSON of Minnesota, Ms. CARSON, Mr. REYES, Mr. RODRIGUEZ, Mr. SOLOMON, Mr. BAKER, and Mrs. CHENOWETH) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PERSONS ELIGIBLE FOR BURIAL IN ARLING-**  
4 **TON NATIONAL CEMETERY.**

5 (a) IN GENERAL.—Chapter 24 of title 38, United  
6 States Code, is amended by adding at the end the follow-  
7 ing new section:

1 **“§ 2412. Arlington National Cemetery: person eligible**  
2 **for burial; authorized headstones and**  
3 **markers**

4 “(a) ELIGIBILITY.—The remains of the following in-  
5 dividuals may be buried in Arlington National Cemetery:

6 “(1) Any member of the Armed Forces who  
7 dies while on active duty (other than active duty for  
8 training).

9 “(2) Any retired member of the Armed Forces.

10 “(3) Any former member of the Armed Forces  
11 separated for physical disability before October 1,  
12 1949, who—

13 “(A) served on active duty (other than for  
14 training); and

15 “(B) would have been eligible for retire-  
16 ment under the provisions of section 1201 of  
17 title 10 (relating to retirement for disability)  
18 had that section been in effect on the date of  
19 separation of the member.

20 “(4) Any former member of the Armed Forces  
21 whose last active duty military service (other than  
22 for training) terminated honorably and who has been  
23 awarded one of the following decorations:

24 “(A) Medal of Honor.

25 “(B) Distinguished Service Cross (Air  
26 Force Cross or Navy Cross).

1                   “(C) Distinguished Service Medal.

2                   “(D) Silver Star.

3                   “(E) Purple Heart.

4                   “(5) Any former prisoner of war—

5                   “(A) who, while a prisoner of war, served  
6                   honorably in the active military, naval, or air  
7                   service;

8                   “(B) whose last period of active military,  
9                   naval, or air service terminated honorably; and

10                   “(C) who died on or after November 30,  
11                   1993.

12                   “(6) The President or any former President.

13                   “(7) Subject to subsection (b), the spouse, sur-  
14                   viving spouse, minor child and, at the discretion of  
15                   the Superintendent of Arlington National Cemetery,  
16                   unmarried adult child of a person listed in para-  
17                   graphs (1) through (6), but only if buried in the  
18                   same gravesite as that person.

19                   “(8) Subject to subsection (b), the spouse, sur-  
20                   viving spouse, minor child, and, at the discretion of  
21                   the Superintendent of Arlington National Cemetery,  
22                   unmarried adult child of a member of the Armed  
23                   Forces who is buried in Arlington National Ceme-  
24                   tery as part of a group burial, but the spouse, sur-

1       viving spouse, minor child, or unmarried adult child  
2       may not be buried in the group gravesite.

3           “(9) Subject to subsection (b), the spouse, sur-  
4       viving spouse, minor child, and, at the discretion of  
5       the Superintendent of Arlington National Cemetery,  
6       unmarried adult child of any person already buried  
7       in Arlington National Cemetery.

8           “(10) The widow or widower of a member of  
9       the Armed Forces who was lost or buried at sea or  
10      who was officially determined to be permanently ab-  
11      sent in a status of missing or missing in action.

12          “(11) The parents of a minor child or unmar-  
13      ried adult child whose remains, based on the eligi-  
14      bility of a parent, are already buried in Arlington  
15      National Cemetery.

16          “(b) SPOUSES.—For purposes of paragraph (7), (8),  
17      and (9) of subsection (a), a surviving spouse who has re-  
18      married and whose remarriage is void, terminated by  
19      death, or dissolved by annulment or divorce regains eligi-  
20      bility for burial in Arlington National Cemetery unless it  
21      is determined by the Secretary of the Army that the decree  
22      of annulment or divorce was secured through fraud or col-  
23      lusion.

24          “(c) DISABLED ADULT UNMARRIED CHILDREN.—In  
25      the case of an unmarried adult child who is incapable of

1 self-support up to the time of death because of a physical  
2 or mental condition, the child may be buried under para-  
3 graph (7) of subsection (a) without requirement for ap-  
4 proval by the Superintendent of Arlington National Ceme-  
5 tery under that paragraph if the burial is in the same  
6 gravesite as the gravesite in which the parent has been  
7 or will be buried.

8       “(d) EXCLUSIVE AUTHORITY FOR BURIAL IN AR-  
9 LINGTON NATIONAL CEMETERY.—Eligibility for burial of  
10 remains in Arlington National Cemetery prescribed under  
11 this section is the exclusive eligibility for such burial.

12       “(e) APPLICATION FOR BURIAL.—The Secretary of  
13 the Army, or any other responsible official, may not con-  
14 sider a request for burial of remains of an individual in  
15 Arlington National Cemetery made before the death of the  
16 individual.

17       “(f) GRAVESITE MARKERS PROVIDED BY THE SEC-  
18 RETARY.—A gravesite in Arlington National Cemetery  
19 shall be appropriately marked in accordance with section  
20 2404 of this title.

21       “(g) GRAVESITE MARKERS PROVIDED AT PRIVATE  
22 EXPENSE.—(1) The Secretary of the Army shall prescribe  
23 regulations for the provision of markers or monuments to  
24 mark a gravesite at private expense in lieu of headstones

1 and markers provided by the Secretary of the Army in  
2 Arlington National Cemetery.

3 “(2) Such regulations shall ensure that—

4 “(A) such markers or monuments are of simple  
5 design, dignified, and appropriate to a military cem-  
6 etery;

7 “(B) the person providing such marker or  
8 monument provides for the future maintenance of  
9 the marker or monument in the event repairs are  
10 necessary;

11 “(C) the Secretary of the Army shall not be lia-  
12 ble for maintenance of or damage to the marker or  
13 monument;

14 “(D) such markers and monuments are aesthet-  
15 ically compatible with Arlington National Cemetery;  
16 and

17 “(E) such markers and monuments are per-  
18 mitted only in sections of Arlington National Ceme-  
19 tery authorized for such markers and monuments as  
20 of January 1, 1947.

21 “(h) REGISTER OF BURIED INDIVIDUALS.—(1) The  
22 Secretary of the Army shall maintain a register of each  
23 individual buried in Arlington National Cemetery and  
24 shall make such register available to the public.

1       “(2) With respect to each such individual buried on  
2 or after January 1, 1998, the register shall include a brief  
3 description of the basis of eligibility of the individual for  
4 burial in Arlington National Cemetery.

5       “(i) REGULATIONS.—Any regulation prescribed by  
6 the Secretary of the Army to carry out this section shall  
7 be made on the record after opportunity for a hearing.

8       “(j) DEFINITIONS.—For purposes of this section:

9               “(1) The term ‘retired member of the Armed  
10 Forces’ means a retired member of the Armed  
11 Forces who—

12                       “(A) served on active duty (other than for  
13 training);

14                       “(B) is carried on a retired list; and

15                       “(C) is entitled to receive retired pay.

16               “(2) The term ‘former member of the Armed  
17 Forces’ includes a person whose service is considered  
18 active duty service pursuant to a determination of  
19 the Secretary of Defense under section 401 of Public  
20 Law 95-202.”.

21       “(b) PUBLICATION OF UPDATED PAMPHLET.—Not  
22 later than 180 days after the date of the enactment of  
23 this Act, the Secretary of the Army shall publish an up-  
24 dated pamphlet describing eligibility for burial in Arling-  
25 ton National Cemetery. The pamphlet shall reflect the pro-

1 visions of section 2412 of title 38, United States Code,  
2 as added by subsection (a).

3 (c) CONFORMING AMENDMENT.—The table of sec-  
4 tions at the beginning of chapter 24 of title 38, United  
5 States Code, is amended by adding at the end the follow-  
6 ing new item:

“2412. Arlington National Cemetery: person eligible for burial; authorized  
headstones and markers.”.

7 (d) EFFECTIVE DATE.—Section 2412 of title 38,  
8 United States Code, as added by subsection (a), shall  
9 apply with respect to individuals dying on or after the date  
10 of the enactment of this Act.

11 **SEC. 2. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**  
12 **UMBARIUM IN ARLINGTON NATIONAL CEME-**  
13 **TERY.**

14 (a) IN GENERAL.—Chapter 24 of title 38, United  
15 States Code, as amended by section 1 of this Act, is fur-  
16 ther amended by adding at the end the following new sec-  
17 tion:

18 **“§ 2413. Persons eligible for placement in the col-**  
19 **umbarium in Arlington National Ceme-**  
20 **tery**

21 “The cremated remains of the following individuals  
22 may be placed in the columbarium in Arlington National  
23 Cemetery:

1           “(1) A person eligible for burial in Arlington  
2 National Cemetery under section 2412 of this title.

3           “(2)(A) A veteran whose last period of active  
4 duty service (other than for training) ended honor-  
5 ably.

6           “(B) The spouse, surviving spouse, minor child,  
7 and, at the discretion of the Superintendent of Ar-  
8 lington National Cemetery, unmarried adult child of  
9 such a veteran.”.

10       (b) CONFORMING AMENDMENT.—The table of sec-  
11 tions at the beginning of chapter 24 of title 38, United  
12 States Code, as amended by section 1 of this Act, is fur-  
13 ther amended by adding at the end the following new item:

“2413. Persons eligible for placement in the columbarium in Arlington National  
Cemetery.”.

14       (c) EFFECTIVE DATE.—Section 2413 of title 38,  
15 United States Code, as added by subsection (a), shall  
16 apply with respect to individuals dying on or after the date  
17 of the enactment of this Act.

18 **SEC. 3. MEMORIAL AREAS IN ARLINGTON NATIONAL CEME-**  
19 **TERY LIMITED TO HONORING MILITARY**  
20 **SERVICE.**

21       (a) IN GENERAL.—Section 2409(b) of title 38,  
22 United States Code, is amended—

23           (1) by inserting “(1)” after “(b)”; and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(2)(A) A memorial or marker may not be placed in  
4 Arlington National Cemetery unless the memorial or  
5 marker commemorates the service in the Armed Forces  
6 of the individual, or group of individuals, whose memory  
7 is to be honored by the memorial or marker.

8           “(B) Such a memorial or marker that makes ref-  
9 erence to a particular military event may not be placed  
10 in Arlington National Cemetery until the end of the 25-  
11 year period beginning on the date of the event.”.

12          (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall apply with respect to memorials or  
14 markers placed in Arlington National Cemetery on or  
15 after the date of the enactment of this Act.

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