

106TH CONGRESS  
1ST SESSION

# H. R. 70

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

JANUARY 6, 1999

Mr. STUMP (for himself, Mr. EVANS, and Mr. BILIRAKIS) 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. SHORT TITLE.**

4 This Act may be cited as the “Arlington National  
5 Cemetery Burial Eligibility Act”.

6 **SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NA-**  
7 **TIONAL CEMETERY.**

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

1 **“§ 2412. Arlington National Cemetery: persons eligi-**  
2 **ble for burial**

3 “(a) PRIMARY ELIGIBILITY.—The remains of the fol-  
4 lowing individuals may be buried in Arlington National  
5 Cemetery:

6 “(1) Any member of the Armed Forces who  
7 dies while on active duty.

8 “(2) Any retired member of the Armed Forces  
9 and any person who served on active duty and at the  
10 time of death was entitled (or but for age would  
11 have been entitled) to retired pay under chapter  
12 1223 of title 10, United States Code.

13 “(3) Any former member of the Armed Forces  
14 separated for physical disability before October 1,  
15 1949, who—

16 “(A) served on active duty; and

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

22 “(4) Any former member of the Armed Forces  
23 whose last active duty military service terminated  
24 honorably and who has been awarded one of the fol-  
25 lowing decorations:

26 “(A) Medal of Honor.

1                   “(B) Distinguished Service Cross, Air  
2                   Force Cross, or Navy Cross.

3                   “(C) Distinguished Service Medal.

4                   “(D) Silver Star.

5                   “(E) Purple Heart.

6                   “(5) Any former prisoner of war who dies on or  
7                   after November 30, 1993.

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

9                   “(b) ELIGIBILITY OF FAMILY MEMBERS.—The re-  
10                   mains of the following individuals may be buried in Arling-  
11                   ton National Cemetery:

12                   “(1) The spouse, surviving spouse (which for  
13                   purposes of this paragraph includes any remarried  
14                   surviving spouse, section 2402(5) of this title not-  
15                   withstanding), minor child, and, at the discretion of  
16                   the Superintendent, unmarried adult child of a per-  
17                   son listed in subsection (a), but only if buried in the  
18                   same gravesite as that person.

19                   “(2)(A) The spouse, minor child, and, at the  
20                   discretion of the Superintendent, unmarried adult  
21                   child of a member of the Armed Forces on active  
22                   duty if such spouse, minor child, or unmarried adult  
23                   child dies while such member is on active duty.

24                   “(B) The individual whose spouse, minor child,  
25                   and unmarried adult child is eligible under subpara-

1 graph (A), but only if buried in the same gravesite  
2 as the spouse, minor child, or unmarried adult child.

3 “(3) The parents of a minor child or unmarried  
4 adult child whose remains, based on the eligibility of  
5 a parent, are already buried in Arlington National  
6 Cemetery, but only if buried in the same gravesite  
7 as that minor child or unmarried adult child.

8 “(4)(A) Subject to subparagraph (B), the sur-  
9 viving spouse, minor child, and, at the discretion of  
10 the Superintendent, unmarried adult child of a  
11 member of the Armed Forces who was lost, buried  
12 at sea, or officially determined to be permanently ab-  
13 sent in a status of missing or missing in action.

14 “(B) A person is not eligible under subpara-  
15 graph (A) if a memorial to honor the memory of the  
16 member is placed in a cemetery in the national cem-  
17 etery system, unless the memorial is removed. A me-  
18 morial removed under this subparagraph may be  
19 placed, at the discretion of the Superintendent, in  
20 Arlington National Cemetery.

21 “(5) The surviving spouse, minor child, and, at  
22 the discretion of the Superintendent, unmarried  
23 adult child of a member of the Armed Forces buried  
24 in a cemetery under the jurisdiction of the American  
25 Battle Monuments Commission.

1       “(c) DISABLED ADULT UNMARRIED CHILDREN.—In  
2 the case of an unmarried adult child who is incapable of  
3 self-support up to the time of death because of a physical  
4 or mental condition, the child may be buried under sub-  
5 section (b) without requirement for approval by the Super-  
6 intendent under that subsection if the burial is in the same  
7 gravesite as the gravesite in which the parent, who is eligi-  
8 ble for burial under subsection (a), has been or will be  
9 buried.

10       “(d) FAMILY MEMBERS OF PERSONS BURIED IN A  
11 GROUP GRAVESITE.—In the case of a person eligible for  
12 burial under subsection (a) who is buried in Arlington Na-  
13 tional Cemetery as part of a group burial, the surviving  
14 spouse, minor child, or unmarried adult child of the mem-  
15 ber may not be buried in the group gravesite.

16       “(e) EXCLUSIVE AUTHORITY FOR BURIAL IN AR-  
17 LINGTON NATIONAL CEMETERY.—Eligibility for burial of  
18 remains in Arlington National Cemetery prescribed under  
19 this section is the exclusive eligibility for such burial.

20       “(f) APPLICATION FOR BURIAL.—A request for bur-  
21 ial of remains of an individual in Arlington National Cem-  
22 etery made before the death of the individual may not be  
23 considered by the Secretary of the Army or any other re-  
24 sponsible official.

1       “(g) REGISTER OF BURIED INDIVIDUALS.—(1) The  
2 Secretary of the Army shall maintain a register of each  
3 individual buried in Arlington National Cemetery and  
4 shall make such register available to the public.

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

9       “(h) DEFINITIONS.—For purposes of this section:

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

12                   “(A) any member of the Armed Forces on  
13 a retired list who served on active duty and who  
14 is entitled to retired pay;

15                   “(B) any member of the Fleet Reserve or  
16 Fleet Marine Corps Reserve who served on ac-  
17 tive duty and who is entitled to retainer pay;  
18 and

19                   “(C) any member of a reserve component  
20 of the Armed Forces who has served on active  
21 duty and who has received notice from the Sec-  
22 retary concerned under section 12731(d) of title  
23 10, of eligibility for retired pay under chapter  
24 1223 of title 10, United States Code.

1           “(2) The term ‘former member of the Armed  
2           Forces’ includes a person whose service is considered  
3           active duty service pursuant to a determination of  
4           the Secretary of Defense under section 401 of Public  
5           Law 95–202 (38 U.S.C. 106 note).

6           “(3) The term ‘Superintendent’ means the Su-  
7           perintendent of Arlington National Cemetery.”.

8           (b) PUBLICATION OF UPDATED PAMPHLET.—Not  
9           later than 180 days after the date of the enactment of  
10          this Act, the Secretary of the Army shall publish an up-  
11          dated pamphlet describing eligibility for burial in Arling-  
12          ton National Cemetery. The pamphlet shall reflect the pro-  
13          visions of section 2412 of title 38, United States Code,  
14          as added by subsection (a).

15          (c) CLERICAL AMENDMENT.—The table of sections  
16          at the beginning of chapter 24 of title 38, United States  
17          Code, is amended by adding at the end the following new  
18          item:

          “2412. Arlington National Cemetery: persons eligible for burial.”.

19          (d) TECHNICAL AMENDMENTS.—(1) Section 2402(5)  
20          of title 38, United States Code, is amended by inserting  
21          “, except section 2412(b)(1) of this title,” after “which  
22          for purposes of this chapter”.

23          (2) Section 2402(7) of such title is amended—

24                  (A) by inserting “(or but for age would have  
25                  been entitled)” after “was entitled”;

1 (B) by striking out “chapter 67” and inserting  
2 in lieu thereof “chapter 1223”; and

3 (C) by striking out “or would have been entitled  
4 to” and all that follows and inserting in lieu thereof  
5 a period.

6 (e) EFFECTIVE DATE.—(1) Except as provided in  
7 paragraph (2), section 2412 of title 38, United States  
8 Code, as added by subsection (a), shall apply with respect  
9 to individuals dying on or after the date of the enactment  
10 of this Act.

11 (2) In the case of an individual buried in Arlington  
12 National Cemetery before the date of the enactment of  
13 this Act, the surviving spouse of such individual is deemed  
14 to be eligible for burial in Arlington National Cemetery  
15 under subsection (b) of such section, but only in the same  
16 gravesite as such individual.

17 **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**  
18 **UMBARIUM IN ARLINGTON NATIONAL CEME-**  
19 **TERY.**

20 (a) IN GENERAL.—Chapter 24 of title 38, United  
21 States Code, is amended by adding after section 2412, as  
22 added by section 2(a) of this Act, the following new sec-  
23 tion:

1 **“§ 2413. Arlington National Cemetery: persons eligi-**  
2 **ble for placement in columbarium**

3 “The cremated remains of the following individuals  
4 may be placed in the columbarium in Arlington National  
5 Cemetery:

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

8 “(2)(A) A veteran whose last period of active  
9 duty service (other than active duty for training)  
10 ended honorably.

11 “(B) The spouse, surviving spouse, minor child,  
12 and, at the discretion of the Superintendent of Ar-  
13 lington National Cemetery, unmarried adult child of  
14 such a veteran.

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 at the beginning of chapter 24 of title 38, United States  
17 Code, is amended by adding after section 2412, as added  
18 by section 2(c) of this Act, the following new item:

“2413. Arlington National Cemetery: persons eligible for placement in columbarium.”.

19 (c) CONFORMING AMENDMENT.—Section  
20 11201(a)(1) of title 46, United States Code, is amended  
21 by inserting after subparagraph (B), the following new  
22 subparagraph:

1           “(C) Section 2413 (relating to placement  
2           in the columbarium in Arlington National Cem-  
3           etery).”.

4           (d) EFFECTIVE DATE.—Section 2413 of title 38,  
5 United States Code, as added by subsection (a), and sec-  
6 tion 11201(a)(1)(C), as added by subsection (c), shall  
7 apply with respect to individuals dying on or after the date  
8 of the enactment of this Act.

9 **SEC. 4. MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

10          (a) IN GENERAL.—Chapter 24 of title 38, United  
11 States Code, is amended by adding after section 2413, as  
12 added by section 3(a) of this Act, the following new sec-  
13 tion:

14 **“§ 2414. Arlington National Cemetery: authorized**  
15 **headstones, markers, and monuments**

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

20          “(b) GRAVESITE MARKERS PROVIDED AT PRIVATE  
21 EXPENSE.—(1) The Secretary of the Army shall prescribe  
22 regulations for the provision of headstones or markers to  
23 mark a gravesite at private expense in lieu of headstones  
24 and markers provided by the Secretary of Veterans Affairs  
25 in Arlington National Cemetery.

1 “(2) Such regulations shall ensure that—

2 “(A) such headstones or markers are of simple  
3 design, dignified, and appropriate to a military cem-  
4 etery;

5 “(B) the person providing such headstone or  
6 marker provides for the future maintenance of the  
7 headstone or marker in the event repairs are nec-  
8 essary;

9 “(C) the Secretary of the Army shall not be lia-  
10 ble for maintenance of or damage to the headstone  
11 or marker;

12 “(D) such headstones or markers are aestheti-  
13 cally compatible with Arlington National Cemetery;  
14 and

15 “(E) such headstones or markers are permitted  
16 only in sections of Arlington National Cemetery au-  
17 thorized for such headstones or markers as of Janu-  
18 ary 1, 1947.

19 “(c) MONUMENTS.—(1) No monument (or similar  
20 structure as determined by the Secretary of the Army in  
21 regulations) may be placed in Arlington National Ceme-  
22 tery except pursuant to the provisions of this subsection.

23 “(2) A monument may be placed in Arlington Na-  
24 tional Cemetery if the monument commemorates—

1           “(A) the service in the Armed Forces of the in-  
2           dividual, or group of individuals, whose memory is to  
3           be honored by the monument; or

4           “(B) a particular military event.

5           “(3) No monument may be placed in Arlington Na-  
6           tional Cemetery until the end of the 25-year period  
7           beginning—

8           “(A) in the case of commemoration of service  
9           under paragraph (1)(A), on the last day of the pe-  
10          riod of service so commemorated; and

11          “(B) in the case of commemoration of a par-  
12          ticular military event under paragraph (1)(B), on  
13          the last day of the period of the event.

14          “(4) A monument may be placed only in those sec-  
15          tions of Arlington National Cemetery designated by the  
16          Secretary of the Army for such placement.”.

17          (b) CLERICAL AMENDMENT.—The table of sections  
18          at the beginning of chapter 24 of title 38, United States  
19          Code, is amended by adding after section 2413, as added  
20          by section 3(b) of this Act, the following new item:

          “2414. Arlington National Cemetery: authorized headstones, markers, and  
          monuments.”.

21          (c) EFFECTIVE DATE.—The amendment made by  
22          subsection (a) shall apply with respect to headstones,  
23          markers, or monuments placed in Arlington National

1 Cemetery on or after the date of the enactment of this  
2 Act.

3 **SEC. 5. PUBLICATION OF REGULATIONS.**

4 Not later than one year after the date of the enact-  
5 ment of this Act, the Secretary of the Army shall publish  
6 in the Federal Register any regulation proposed by the  
7 Secretary under this Act.

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