

Union Calendar No. 37

106TH CONGRESS
1ST SESSION

H. R. 70

[Report No. 106-70]

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

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

MARCH 18, 1999

Additional sponsors: Mr. QUINN, Mr. SAXTON, Ms. DANNER, Mrs. CHENOWETH, Mr. MCINTOSH, Mr. HILLEARY, Mr. GRAHAM, Mr. JENKINS, Mrs. MCCARTHY of New York, Ms. CARSON, Ms. BROWN of Florida, Mr. CONDIT, Mr. HOLDEN, Mr. MCNULTY, Mr. BLILEY, Mr. ACKERMAN, Mrs. THURMAN, Mr. HORN, Mr. HASTINGS of Washington, Mr. TANCREDO, Mr. DAVIS of Florida, Mr. BORSKI, Mr. LATOURETTE, Mr. STEARNS, Mr. PALLONE, Ms. KAPTUR, Mr. LAFALCE, Mrs. MYRICK, Mr. GIBBONS, Mr. ENGLISH of Pennsylvania, Mr. GREEN of Texas, Ms. GRANGER, Mr. SUNUNU, Mr. LEWIS of Kentucky, Mrs. KELLY, Mr. GARY MILLER of California, Mr. LAHOOD, Mr. CROWLEY, Mr. FROST, Mr. KLECZKA, Mr. TURNER, Mr. BARRETT of Wisconsin, Mr. CRANE, Mr. GUTKNECHT, Mr. WALDEN of Oregon, Mr. SMITH of New Jersey, Mr. UNDERWOOD, Mr. BRYANT, Mr. TIERNEY, Mrs. CUBIN, Mr. SHOWS, Mr. NEY, Mr. NETHERCUTT, Mr. GEJDENSON, Mr. DINGELL, Ms. PRYCE of Ohio, Mr. CUNNINGHAM, Mr. LIPINSKI, Mr. TAYLOR of Mississippi, Mr. MARTINEZ, Mr. BARRETT of Nebraska, Mr. SISISKY, Mrs. BIGGERT, Mr. LARGENT, Mr. FALCOMA, Mr. HAYWORTH, Mrs. JONES of Ohio, Mr. UPTON, Mr. LANTOS, Mr. MCCOLLUM, Mr. EWING, Mr. SALMON, Mr. KOLBE, Mr. WHITFIELD, Mr. MCKEON, Mr. FOLEY, Mr. BROWN of Ohio, Mr. SPENCE, Mr. BATEMAN, Mr. FRANKS of New Jersey, Mr. RAHALL, Mrs. EMERSON, Mr. COSTELLO, Mr. HOBSON, Mr. BILBRAY, Mr. LATHAM, Mr. GOODE, Mr. WYNN, Mr. TERRY, Mr. PEASE, Mr. WELLER, Mr. REYES, Mr. GORDON, Mr. HUTCHINSON, Mr. SENSENBRENNER, Mr. SWEENEY, Mr. GOODLATTE, Mr. LUCAS of Oklahoma,

Mr. LAZIO, Mr. PICKETT, Mrs. CLAYTON, Mr. BOEHLERT, Mr. STUPAK,
Mr. MALONEY of Connecticut, Mr. FOSSELLA, Mr. EVERETT, Mrs. JOHN-
SON of Connecticut, Mr. PICKERING, Mr. JEFFERSON, Mr. MCINTYRE,
Ms. LOFGREN, Mr. GALLEGLY, and Mr. SIMPSON

MARCH 18, 1999

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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 fol-
10 lowing new section:

11 **“§ 2412. Arlington National Cemetery: persons eligi-**
12 **ble for burial**

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

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

3 “(2) Any retired member of the Armed Forces
4 and any person who served on active duty and at the
5 time of death was entitled (or but for age would
6 have been entitled) to retired pay under chapter
7 1223 of title 10, United States Code.

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

11 “(A) served on active duty; and

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

17 “(4) Any former member of the Armed Forces
18 whose last active duty military service terminated
19 honorably and who has been awarded one of the fol-
20 lowing decorations:

21 “(A) Medal of Honor.

22 “(B) Distinguished Service Cross, Air
23 Force Cross, or Navy Cross.

24 “(C) Distinguished Service Medal.

25 “(D) Silver Star.

1 “(E) Purple Heart.

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

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

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

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

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

20 “(B) The individual whose spouse, minor child,
21 and unmarried adult child is eligible under subpara-
22 graph (A), but only if buried in the same gravesite
23 as the spouse, minor child, or unmarried adult child.

24 “(3) The parents of a minor child or unmarried
25 adult child whose remains, based on the eligibility of

1 a parent, are already buried in Arlington National
2 Cemetery, but only if buried in the same gravesite
3 as that minor child or unmarried adult child.

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

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

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

22 “(c) DISABLED ADULT UNMARRIED CHILDREN.—In
23 the case of an unmarried adult child who is incapable of
24 self-support up to the time of death because of a physical
25 or mental condition, the child may be buried under sub-

1 section (b) without requirement for approval by the Super-
2 intendent under that subsection if the burial is in the same
3 gravesite as the gravesite in which the parent, who is eligi-
4 ble for burial under subsection (a), has been or will be
5 buried.

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

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

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

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

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

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

11 “(B) any member of the Fleet Reserve or
12 Fleet Marine Corps Reserve who served on ac-
13 tive duty and who is entitled to retainer pay;
14 and

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

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

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

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

10 (c) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of chapter 24 of title 38, United States
12 Code, is amended by adding at the end the following new
13 item:

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

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

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

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

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

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

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

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

12 **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**
13 **UMBARIIUM IN ARLINGTON NATIONAL CEME-**
14 **TERY.**

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

19 **“§ 2413. Arlington National Cemetery: persons eligi-**
20 **ble for placement in columbarium**

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

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

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

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

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

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

12 (c) CONFORMING AMENDMENT.—Section
13 11201(a)(1) of title 46, United States Code, is amended
14 by inserting after subparagraph (B), the following new
15 subparagraph:

16 “(C) Section 2413 (relating to placement
17 in the columbarium in Arlington National Cem-
18 etry).”.

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

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

2 (a) IN GENERAL.—Chapter 24 of title 38, United
3 States Code, is amended by adding after section 2413, as
4 added by section 3(a) of this Act, the following new
5 section:

6 **“§ 2414. Arlington National Cemetery: authorized**
7 **headstones, markers, and monuments**

8 “(a) GRAVESITE MARKERS PROVIDED BY THE SEC-
9 RETARY.—A gravesite in Arlington National Cemetery
10 shall be appropriately marked in accordance with section
11 2404 of this title.

12 “(b) GRAVESITE MARKERS PROVIDED AT PRIVATE
13 EXPENSE.—(1) The Secretary of the Army shall prescribe
14 regulations for the provision of headstones or markers to
15 mark a gravesite at private expense in lieu of headstones
16 and markers provided by the Secretary of Veterans Affairs
17 in Arlington National Cemetery.

18 “(2) Such regulations shall ensure that—

19 “(A) such headstones or markers are of simple
20 design, dignified, and appropriate to a military cem-
21 etery;

22 “(B) the person providing such headstone or
23 marker provides for the future maintenance of the
24 headstone or marker in the event repairs are nec-
25 essary;

1 “(C) the Secretary of the Army shall not be lia-
2 ble for maintenance of or damage to the headstone
3 or marker;

4 “(D) such headstones or markers are aestheti-
5 cally compatible with Arlington National Cemetery;
6 and

7 “(E) such headstones or markers are permitted
8 only in sections of Arlington National Cemetery au-
9 thorized for such headstones or markers as of Janu-
10 ary 1, 1947.

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

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

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

20 “(B) a particular military event.

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

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

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

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

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

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

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply with respect to headstones,
16 markers, or monuments placed in Arlington National
17 Cemetery on or after the date of the enactment of this
18 Act.

19 **SEC. 5. PUBLICATION OF REGULATIONS.**

20 Not later than one year after the date of the enact-
21 ment of this Act, the Secretary of the Army shall publish
22 in the Federal Register any regulation proposed by the
23 Secretary under this Act.

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[Report No. 106-70]

A BILL

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