

108TH CONGRESS  
1ST SESSION

# H. R. 358

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 27, 2003

Mr. EVERETT introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

## 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:

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)(A) Any retired member of the Armed  
9 Forces.

10 “(B) Any member or former member of a re-  
11 serve component of the Armed Forces—

12 “(i) who served on active duty;

13 “(ii) who was honorably discharged from  
14 such active duty service;

15 “(iii) who, at the time of death, was under  
16 60 years of age; and

17 “(iv) who, but for age, would have been eli-  
18 gible at the time of death for retired pay under  
19 chapter 1223 of title 10.

20 “(3) Any former member of the Armed Forces  
21 separated for physical disability before October 1,  
22 1949, who—

23 “(A) served on active duty; and

24 “(B) would have been eligible for retire-  
25 ment under the provisions of section 1201 of  
26 title 10 (relating to retirement for disability)

1 had that section been in effect on the date of  
2 separation of the member.

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

7 “(A) Medal of Honor.

8 “(B) Distinguished Service Cross, Air  
9 Force Cross, or Navy Cross.

10 “(C) Distinguished Service Medal.

11 “(D) Silver Star.

12 “(E) Purple Heart.

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

15 “(6) Any member of a reserve component of the  
16 Armed Forces who dies in the performance of duty  
17 while on active duty for training or inactive duty  
18 training.

19 “(7) The President or any former President.

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

23 “(1) The spouse, surviving spouse (which for  
24 purposes of this paragraph includes any remarried  
25 surviving spouse, section 2402(5) of this title not-

1 withstanding), minor child, and, at the discretion of  
2 the Superintendent, unmarried adult child of a per-  
3 son listed in subsection (a), but only if buried in the  
4 same gravesite as that person.

5 “(2)(A) The spouse, minor child, and, at the  
6 discretion of the Superintendent, unmarried adult  
7 child of a member of the Armed Forces on active  
8 duty if such spouse, minor child, or unmarried adult  
9 child dies while such member is on active duty.

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

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

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

1           “(B) A person is not eligible under subpara-  
2           graph (A) if a memorial to honor the memory of the  
3           member is placed in a cemetery in the national cem-  
4           etery system, unless the memorial is removed. A me-  
5           morial removed under this subparagraph may be  
6           placed, at the discretion of the Superintendent, in  
7           Arlington National Cemetery.

8           “(5) The surviving spouse, minor child, and, at  
9           the discretion of the Superintendent, unmarried  
10          adult child of a member of the Armed Forces buried  
11          in a cemetery under the jurisdiction of the American  
12          Battle Monuments Commission.

13          “(c) DISABLED ADULT UNMARRIED CHILDREN.—In  
14          the case of an unmarried adult child who is incapable of  
15          self-support up to the time of death because of a physical  
16          or mental condition, the child may be buried under sub-  
17          section (b) without requirement for approval by the Super-  
18          intendent under that subsection if the burial is in the same  
19          gravesite as the gravesite in which the parent, who is eligi-  
20          ble for burial under subsection (a), has been or will be  
21          buried.

22          “(d) FAMILY MEMBERS OF PERSONS BURIED IN A  
23          GROUP GRAVESITE.—In the case of a person eligible for  
24          burial under subsection (a) who is buried in Arlington Na-  
25          tional Cemetery as part of a group burial, the surviving

1 spouse, minor child, or unmarried adult child of the mem-  
2 ber may not be buried in the group gravesite.

3 “(e) EXCLUSIVE AUTHORITY FOR BURIAL IN AR-  
4 LINGTON NATIONAL CEMETERY.—(1) Eligibility for bur-  
5 ial of remains in Arlington National Cemetery prescribed  
6 under this section is the exclusive eligibility for such bur-  
7 ial.

8 “(2)(A) In the case of an individual not otherwise eli-  
9 gible for burial under subsection (a) whose acts, service,  
10 or contributions to the Armed Forces are so extraordinary  
11 as to justify burial in Arlington National Cemetery, the  
12 President may deem such individual eligible for burial  
13 under subsection (a).

14 “(B) If the President deems an individual eligible for  
15 burial in Arlington National Cemetery under subpara-  
16 graph (A), the Secretary of the Army shall immediately  
17 notify the chairmen and the ranking members of the Com-  
18 mittee on Veterans’ Affairs of the Senate and House of  
19 Representatives.

20 “(C)(i) Except as provided in clause (ii), the author-  
21 ity under subparagraph (A) may not be delegated.

22 “(ii) The President may only delegate the authority  
23 under subparagraph (A) to the Secretary of the Army.

24 “(f) APPLICATION FOR BURIAL.—(1) A request for  
25 burial of remains of an individual in Arlington National

1 Cemetery shall be made to the Secretary of the Army or  
2 to any other Federal official that the Secretary of the  
3 Army may specify.

4 “(2) The Secretary, or other Federal official, may not  
5 consider a request referred to in paragraph (1) that is  
6 made before the death of the individual for whom burial  
7 in Arlington National Cemetery is requested.

8 “(3) The President, or the Secretary, as the case may  
9 be, may not consider a request to deem an individual eligi-  
10 ble for burial in Arlington National Cemetery under sub-  
11 section (e)(2) that is made before the death of the indi-  
12 vidual for whom burial in Arlington National Cemetery is  
13 requested.

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

18 “(2) With respect to each such individual buried on  
19 or after January 1, 2003, the register shall include a brief  
20 description of the basis of eligibility of the individual for  
21 burial in Arlington National Cemetery.

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

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

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

4           “(B) any member of the Fleet Reserve or  
5 Fleet Marine Corps Reserve who served on ac-  
6 tive duty and who is entitled to retainer pay;  
7 and

8           “(C) any member of a reserve component  
9 of the Armed Forces who has served on active  
10 duty and who has received notice from the Sec-  
11 retary concerned under section 12731(d) of title  
12 10, of eligibility for retired pay under chapter  
13 1223 of title 10, United States Code.

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

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

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) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of chapter 24 of title 38, United States  
5 Code, is amended by adding at the end the following new  
6 item:

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

7 (d) TECHNICAL AMENDMENT.—Section 2402(5) of  
8 title 38, United States Code, is amended by inserting “,  
9 except section 2412(b)(1) of this title,” after “which for  
10 purposes of this chapter”.

11 (e) CONFORMING REPEAL.—Section 1176 of the Na-  
12 tional Defense Authorization Act for Fiscal Year 1994  
13 (Public Law 103–160; 38 U.S.C. 2402 note) is repealed.

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

19 (2) In the case of an individual buried in Arlington  
20 National Cemetery before the date of the enactment of  
21 this Act, the surviving spouse of such individual is deemed  
22 to be eligible for burial in Arlington National Cemetery  
23 under subsection (b) of such section, but only in the same  
24 gravesite as such individual.

1 **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**  
2 **UMBARIUM IN ARLINGTON NATIONAL CEME-**  
3 **TERY.**

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

8 **“§ 2413. Arlington National Cemetery: persons eligi-**  
9 **ble for placement in columbarium**

10 “The cremated remains of the following individuals  
11 may be placed in the columbarium in Arlington National  
12 Cemetery:

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

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

18 “(B) The spouse, surviving spouse, minor child,  
19 and, at the discretion of the Superintendent of Ar-  
20 lington National Cemetery, unmarried adult child of  
21 such a veteran.”.

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

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

1 (c) CONFORMING AMENDMENT.—Section  
2 11201(a)(1) of title 46, United States Code, is amended  
3 by inserting after subparagraph (B), the following new  
4 subparagraph:

5 “(C) Section 2413 (relating to placement  
6 in the columbarium in Arlington National Cem-  
7 etery).”.

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

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

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

18 **“§ 2414. Arlington National Cemetery: authorized**  
19 **headstones, markers, and monuments**

20 “(a) GRAVESITE MARKERS PROVIDED BY THE SEC-  
21 RETARY.—A gravesite in Arlington National Cemetery  
22 shall be appropriately marked in accordance with section  
23 2404 of this title.

1       “(b) GRAVESITE MARKERS PROVIDED AT PRIVATE  
2 EXPENSE.—(1) The Secretary of the Army shall prescribe  
3 regulations for the provision of headstones or markers to  
4 mark a gravesite at private expense in lieu of headstones  
5 and markers provided by the Secretary of Veterans Affairs  
6 in Arlington National Cemetery.

7       “(2) Such regulations shall ensure that—

8               “(A) such headstones or markers are of simple  
9 design, dignified, and appropriate to a military cem-  
10 etery;

11              “(B) the person providing such headstone or  
12 marker provides for the future maintenance of the  
13 headstone or marker in the event repairs are nec-  
14 essary;

15              “(C) the Secretary of the Army shall not be lia-  
16 ble for maintenance of or damage to the headstone  
17 or marker;

18              “(D) such headstones or markers are aestheti-  
19 cally compatible with Arlington National Cemetery;  
20 and

21              “(E) such headstones or markers are permitted  
22 only in sections of Arlington National Cemetery au-  
23 thorized for such headstones or markers as of Janu-  
24 ary 1, 1947.

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

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

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

10              “(B) a particular military event.

11       “(3) No monument may be placed in Arlington Na-  
12 tional Cemetery until the end of the 25-year period begin-  
13 ning—

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

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

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

23       (b) CLERICAL AMENDMENT.—The table of sections  
24 at the beginning of chapter 24 of title 38, United States

1 Code, is amended by adding after section 2413, as added  
2 by section 3(b) of this Act, the following new item:

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

3 (c) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall apply with respect to headstones,  
5 markers, or monuments placed in Arlington National  
6 Cemetery on or after the date of the enactment of this  
7 Act.

8 **SEC. 5. PUBLICATION OF REGULATIONS.**

9 Not later than one year after the date of the enact-  
10 ment of this Act, the Secretary of the Army shall publish  
11 in the Federal Register any regulation proposed by the  
12 Secretary to carry out sections 2 through 4.

○