

106TH CONGRESS
1ST SESSION

H. R. 70

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1999

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Arlington National
3 Cemetery Burial Eligibility Act”.

4 **SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NA-**
5 **TIONAL CEMETERY.**

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

9 **“§ 2412. Arlington National Cemetery: persons eligi-**
10 **ble for burial**

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

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

16 “(2) Any retired member of the Armed Forces
17 and any person who served on active duty and at the
18 time of death was entitled (or but for age would
19 have been entitled) to retired pay under chapter
20 1223 of title 10, United States Code.

21 “(3) Any former member of the Armed Forces
22 separated for physical disability before October 1,
23 1949, who—

24 “(A) served on active duty; and

25 “(B) would have been eligible for retire-
26 ment under the provisions of section 1201 of

1 title 10 (relating to retirement for disability)
2 had that section been in effect on the date of
3 separation of the member.

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

8 “(A) Medal of Honor.

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

11 “(C) Distinguished Service Medal.

12 “(D) Silver Star.

13 “(E) Purple Heart.

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

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

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

20 “(1) The spouse, surviving spouse (which for
21 purposes of this paragraph includes any remarried
22 surviving spouse, section 2402(5) of this title not-
23 withstanding), minor child, and, at the discretion of
24 the Superintendent, unmarried adult child of a per-

1 son listed in subsection (a), but only if buried in the
2 same gravesite as that person.

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

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

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

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

23 “(B) A person is not eligible under subpara-
24 graph (A) if a memorial to honor the memory of the
25 member is placed in a cemetery in the national cem-

1 etery system, unless the memorial is removed. A me-
2 morial removed under this subparagraph may be
3 placed, at the discretion of the Superintendent, in
4 Arlington National Cemetery.

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

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

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

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

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

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

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

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

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

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

24 “(B) any member of the Fleet Reserve or
25 Fleet Marine Corps Reserve who served on ac-

1 tive duty and who is entitled to retainer pay;
2 and

3 “(C) any member of a reserve component
4 of the Armed Forces who has served on active
5 duty and who has received notice from the Sec-
6 retary concerned under section 12731(d) of title
7 10, of eligibility for retired pay under chapter
8 1223 of title 10, United States Code.

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

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

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

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

1 Code, is amended by adding at the end the following new
2 item:

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

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

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

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

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

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

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

20 (2) In the case of an individual buried in Arlington
21 National Cemetery before the date of the enactment of
22 this Act, the surviving spouse of such individual is deemed
23 to be eligible for burial in Arlington National Cemetery
24 under subsection (b) of such section, but only in the same
25 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
17 section:

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
13 beginning—

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 under this Act.

Passed the House of Representatives March 23,
1999.

Attest:

JEFF TRANDAHL,
Clerk.