

109TH CONGRESS
1ST SESSION

H. R. 4352

To amend titles 10 and 38, United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2005

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles 10 and 38, United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors, 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. MODIFICATION OF CIRCUMSTANCES UNDER**
2 **WHICH PERSONS CONVICTED OF COMMIT-**
3 **TING CAPITAL OFFENSES MAY BE INTERRED**
4 **IN NATIONAL CEMETERIES.**

5 (a) PROHIBITION OF INTERMENT IN NATIONAL CEM-
6 ETERY.—Section 2411 of title 38, United States Code, is
7 amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1), by striking “for
10 which the person was sentenced to death or life
11 imprisonment”; and

12 (B) in paragraph (2), by striking “for
13 which the person was sentenced to death or life
14 imprisonment without parole”; and

15 (2) in subsection (d)—

16 (A) in paragraph (1), by striking “the
17 death penalty or life imprisonment” and insert-
18 ing “a life sentence or the death penalty”; and

19 (B) in paragraph (2), by striking “the
20 death penalty or life imprisonment without pa-
21 role may be imposed” and inserting “a life sen-
22 tence or the death penalty may be imposed”.

23 (b) RULEMAKING.—The Secretary of Veterans Af-
24 fairs shall prescribe regulations to ensure that a person
25 is not interred in any cemetery in the National Cemetery
26 System unless a good faith effort has been made to deter-

1 mine whether such person is described in section 2411(b)
2 of title 38, United States Code, or is otherwise ineligible
3 for such interment under Federal law.

4 **SEC. 2. MODIFICATION OF CIRCUMSTANCES UNDER WHICH**
5 **PERSONS COMMITTING CAPITAL OFFENSES**
6 **ARE DENIED INTERMENT IN MILITARY CEME-**
7 **TERIES AND FUNERAL HONORS.**

8 (a) PROHIBITION OF INTERMENT IN MILITARY CEM-
9 ETERY.—Section 985 of title 10, United States Code, is
10 amended—

11 (1) in subsection (a), by striking “who has been
12 convicted ” and all that follows through “without
13 parole” and inserting “described in section 2411(b)
14 of title 38”;

15 (2) in subsection (b), by striking “convicted of
16 a capital offense under Federal law” and inserting
17 “described in section 2411(b) of title 38”; and

18 (3) by striking subsection (c) and inserting the
19 following:

20 “(c) DEFINITION.—In this section, the term ‘burial’
21 includes inurnment.”.

22 (b) DENIAL OF FUNERAL HONORS.—Section
23 1491(h) of title 10, United States Code, is amended—

24 (1) by redesignating subsection (h) as sub-
25 section (i); and

1 (2) by inserting after subsection (g) the fol-
 2 lowing new subsection (h):

3 “(h) EXCEPTION FOR VETERANS CONVICTED OF
 4 COMMITTING CAPITAL CRIMES.—In accordance with sec-
 5 tion 985(a) of this title, the Secretary of Defense shall
 6 not ensure that funeral honors are provided under this
 7 section for a person described in section 2411(b) of title
 8 38.”.

9 (c) RULEMAKING.—The Secretary of Defense shall
 10 prescribe regulations to ensure that a person is not in-
 11 terred in a cemetery referred to in paragraph (1), (2), or
 12 (3) of section 985(b) of title 10, United States Code, or
 13 provided funeral honors under section 1491 of such title
 14 unless a good faith effort has been made to determine
 15 whether such person is a person described in section
 16 2411(b) of title 38, United States Code, or is otherwise
 17 ineligible for such interment or honors under Federal law.

18 **SEC. 3. REMOVAL OF REMAINS OF RUSSELL WAYNE WAG-**
 19 **NER FROM ARLINGTON NATIONAL CEME-**
 20 **TERY.**

21 (a) FINDINGS.—Congress finds the following:

22 (1) Arlington National Cemetery is a national
 23 shrine that memorializes the honorable service of
 24 members of the Armed Forces who have defended
 25 the freedoms that all Americans enjoy.

1 (2) The inclusion among the honored dead in-
2 terred at Arlington National Cemetery of persons
3 who have committed particularly notorious, heinous
4 acts brings dishonor to those honored dead and dis-
5 respect to their loved ones.

6 (3) The removal from Arlington National Ceme-
7 tery of the remains of a person who has committed
8 a heinous act would not be an act of punishment
9 against that person, but rather an act that would
10 preserve the sacredness of the cemetery grounds.

11 (b) REMOVAL OF REMAINS.—

12 (1) REMOVAL.—The Secretary of the Army
13 shall remove the remains of Russell Wayne Wagner
14 from Arlington National Cemetery.

15 (2) NOTIFICATION OF NEXT-OF-KIN.—On or
16 before the date on which the remains of Russell
17 Wayne Wagner are removed, the Secretary of the
18 Army shall notify the next-of-kin of record for Rus-
19 sell Wayne Wagner of the removal of his remains

20 (3) REINTERMENT.—Upon the removal of the
21 remains of Russell Wayne Wagner, the Secretary of
22 the Army shall arrange for the internment or
23 inurnment of those remains in a public or private

- 1 cemetery or, if requested, relinquish the remains to
- 2 the next-of-kin of record.

