

Pub. L. 102-40 substituted "6105" for "3505" in introductory provisions.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Pars. (2), (3). Pub. L. 99-576, § 701(54)(A), substituted "while such member" for "while he" wherever appearing.

Par. (5). Pub. L. 99-576, § 701(54)(B), struck out "wife, husband," before "surviving spouse".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-81, div. F, title LXVI, § 6601(b), Dec. 27, 2021, 135 Stat. 2438, provided that: "The amendments made by this section [amending this section] shall have effect as if included in the enactment of section 251(a) of title II of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018 (division J of Public Law 115-141; 132 Stat. 824)."

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-141, div. J, title II, § 251(b), Mar. 23, 2018, 132 Stat. 825, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to an individual dying on or after the date of the enactment of this Act [Mar. 23, 2018]."

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-275 applicable with respect to the death, on or after Oct. 13, 2010, of the parent of a person described in section 2402(a)(9)(B) of this title, who dies on or after October 7, 2001, see section 502(e) of Pub. L. 111-275, set out as a note under section 107 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 212(b) of Pub. L. 108-183 applicable with respect to deaths occurring on or after Dec. 16, 2003, see section 212(c) of Pub. L. 108-183, set out as a note under section 107 of this title.

Pub. L. 108-183, title V, § 502(b), Dec. 16, 2003, 117 Stat. 2667, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to deaths occurring on or after January 1, 2000."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 331(a) of Pub. L. 106-419 applicable with respect to deaths occurring on or after Nov. 1, 2000, see section 331(c) of Pub. L. 106-419, set out as a note under section 107 of this title.

CRITERIA FOR INTERMENT AT ARLINGTON NATIONAL CEMETERY

Pub. L. 115-232, div. A, title V, § 598, Aug. 13, 2018, 132 Stat. 1791, provided that:

"(a) CRITERIA.—The Secretary of the Army, in consultation with the Secretary of Defense, shall prescribe revised criteria for interment at Arlington National Cemetery that preserve Arlington National Cemetery as an active burial ground 'well into the future,' as that term is used in the report submitted by the Secretary of the Army to the Committees on Veterans' Affairs and the Committees on Armed Services of the House of Representatives and the Senate, dated February 14, 2017, and titled 'The Future of Arlington National Cemetery: Report on the Cemetery's Interment and Inurnment Capacity 2017'.

"(b) DEADLINE.—The Secretary of the Army shall establish the criteria under subsection (a) not later than September 30, 2019."

IDENTIFICATION OF UNCLAIMED OR ABANDONED HUMAN REMAINS

Pub. L. 112-260, title I, § 104(a), Jan. 10, 2013, 126 Stat. 2420, provided that: "The Secretary of Veterans Affairs shall cooperate with veterans service organizations to assist entities in possession of unclaimed or abandoned

human remains in determining if any such remains are the remains of veterans or other individuals eligible for burial in a national cemetery under the jurisdiction of the Secretary."

GUIDANCE REQUIRED

Pub. L. 111-275, title V, § 502(c), Oct. 13, 2010, 124 Stat. 2882, provided that: "The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall develop guidance under which the parent of a person described in paragraph (9)(B) of subsection (a) of section 2402 of title 38, United States Code, as added by subsection (b), may be designated for interment in a national cemetery under that section."

ELIGIBILITY OF FORMER PRISONERS OF WAR FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

Pub. L. 103-160, div. A, title XI, § 1176, Nov. 30, 1993, 107 Stat. 1768, provided that:

"(a) ELIGIBILITY FOR BURIAL.—Former prisoners of war described in subsection (b) are eligible for burial in Arlington National Cemetery, Arlington, Virginia.

"(b) ELIGIBLE FORMER POWS.—A former prisoner of war referred to in subsection (a) is a former prisoner of war—

"(1) who dies on or after the date of the enactment of this Act [Nov. 30, 1993]; and

"(2) who, while a prisoner of war, served honorably in the active military, naval, or air service, as determined under regulations prescribed by the Secretary of the military department concerned.

"(c) SAVINGS PROVISION.—This section may not be construed to make ineligible for burial in Arlington National Cemetery a former prisoner of war who is eligible to be buried in that cemetery under another provision of law.

"(d) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Army. Those regulations may prescribe a minimum period of internment as a prisoner of war for purposes of eligibility under this section for burial in Arlington National Cemetery.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'former prisoner of war' has the meaning given such term in section 101(32) of title 38, United States Code.

"(2) The term 'active military, naval, or air service' has the meaning given such term in section 101(24) of such title."

§ 2403. Memorial areas

(a) The Secretary shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

(b) Under regulations prescribed by the Secretary, group memorials may be placed to honor the memory of groups of individuals referred to in subsection (a), and appropriate memorial headstones and markers may be placed to honor the memory of individuals referred to in subsection (a) and section 2306(b) of this title.

(c) All national and other veterans' cemeteries under the control of the National Cemetery Ad-

ministration shall be considered national shrines as a tribute to our gallant dead and, notwithstanding the provisions of any other law, the Secretary is hereby authorized to permit appropriate officials to fly the flag of the United States of America at such cemeteries twenty-four hours each day.

(d)(1) Subject to standards established by the Secretary, the Secretary shall permit the display of a Fallen Soldier Display in any national cemetery.

(2) In this subsection, the term "Fallen Soldier Display" means a memorial monument in honor of fallen members of the Armed Forces that may include a replica of an inverted rifle, boots, helmets, and identification tag.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 76, § 1003; amended Pub. L. 97-66, title VI, § 603(b), Oct. 17, 1981, 95 Stat. 1034; Pub. L. 97-295, § 4(34), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 101-237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2403, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title IV, §§ 401(c), 403(c)(6), Nov. 11, 1998, 112 Stat. 3335, 3339; Pub. L. 116-106, § 2, Jan. 7, 2020, 133 Stat. 3291.)

Editorial Notes

REFERENCES IN TEXT

For cemeteries under the control of the National Cemetery Administration, referred to in subsec. (c), see section 2400(b) of this title.

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-106 added subsec. (d).

1998—Subsec. (b). Pub. L. 105-368, § 401(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Under regulations prescribed by the Secretary, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section."

Subsec. (c). Pub. L. 105-368, § 403(c)(6), substituted "under the control of the National Cemetery Administration" for "in the National Cemetery System created by this chapter".

1991—Pub. L. 102-83 renumbered section 1003 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1982—Subsec. (c). Pub. L. 97-295 substituted "chapter" for "Act" after "created by this".

1981—Subsec. (a). Pub. L. 97-66 substituted provisions relating to members of the Armed Forces and veterans, for provisions that related only to members of the Armed Forces, struck out provisions limiting the subsection to persons who died or were killed while serving in the Armed Forces, and inserted provisions relating to persons whose remains have not been recovered, whose remains were donated to science, or whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 applicable with respect to veterans dying before, on, or after Oct. 17, 1981, see section 701(b)(6) of Pub. L. 97-66, set out as a note under section 1114 of this title.

§ 2404. Administration

(a) The Secretary is authorized to make all rules and regulations which are necessary or ap-

propriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

(b) In conjunction with the development and administration of cemeteries for which the Secretary is responsible, the Secretary shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

(c)(1) Subject to paragraph (2), each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Secretary shall by regulation prescribe.

(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after January 1, 1987, except that—

(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator of Veterans' Affairs to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Secretary may provide for flat grave markers;

(B) in the case of any cemetery with a section which has flat markers on October 28, 1986, the Secretary may continue to provide for flat grave markers in such section;

(C) in the case of any cemetery located on the grounds of or adjacent to a Department health-care facility, the Secretary may provide for flat grave markers;

(D) in the case of grave sites of cremated remains that are interred in the ground, the Secretary may provide for flat grave markers.¹

(E) in the case of grave sites in a green burial section designated under subsection (i), the Secretary may provide for grave markers of such type as the Secretary considers appropriate; and

(F) in the case of Santa Fe National Cemetery, New Mexico, the Secretary may provide for flat grave markers in any section of such cemetery in which flat markers were in use on December 22, 2023.

(d) There shall be kept in each national cemetery, and at the main office of the Department, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which the veteran is buried, and such other information as the Secretary by regulation may prescribe.

(e) In carrying out the Secretary's responsibilities under this chapter, the Secretary may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under the Secretary's jurisdiction as the Secretary shall choose, under such terms and conditions as the Secretary may prescribe.

(f)(1) The Secretary is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the

¹ So in original. The period probably should be a semicolon.