

to be discontinued, the Secretary concerned may provide for the removal of remains from that cemetery to any other cemetery. With respect to any deceased member of an armed force under his jurisdiction whose last service terminated honorably by death or otherwise, the Secretary may also provide for the removal of the remains from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1488	5:2160 (as applicable to armed forces).	July 15, 1954, ch. 507, § 10 (as applicable to armed forces), 68 Stat. 480.

The words "national cemeteries, other installation cemeteries, or" are omitted as surplusage.

§ 1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties

(a) The Secretary of Defense may pay a gratuity to the surviving dependents of any member of the armed forces or of any employee of the Department of Defense—

(1) who—

(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such a member or employee is disguised or concealed; or

(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

(2) who after October 14, 1980 dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(b) Any payment under subsection (a)—

(1) shall be in an amount equal to the amount of the annual basic pay or salary of the member or employee concerned at the time of death;

(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by this chapter or any other Federal law; and

(3) shall be made under the same conditions as apply to payments authorized by section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973).

(Added Pub. L. 96-450, title IV, § 403(b)(1), Oct. 14, 1980, 94 Stat. 1979; amended Pub. L. 97-22, § 11(a)(6), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title XII, § 1268(9), Sept. 24, 1983, 97 Stat. 706; Pub. L. 99-145, title XIII, § 1303(a)(12), Nov. 8, 1985, 99 Stat. 739.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-145 substituted "armed forces" for "Armed Forces".

1983—Subsec. (a)(2). Pub. L. 98-94 substituted "October 14, 1980" for "the date of the enactment of this section".

1981—Subsec. (b)(3). Pub. L. 97-22 substituted "section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973)" for "section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)".

§ 1490. Transportation of remains: certain retired members and dependents who die in military medical facilities

(a) Subject to subsection (b), when a member entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, dies while properly admitted under chapter 55 of this title to a medical facility of the armed forces, the Secretary concerned may transport the remains, or pay the cost of transporting the remains, of the decedent to the place of burial of the decedent.

(b)(1) Transportation provided under this section may not be to a place further from the place of death than the decedent's last place of permanent residence, and any amount paid under this section may not exceed the cost of transportation from the place of death to the decedent's last place of permanent residence.

(2) Transportation of the remains of a decedent may not be provided under this section if such transportation is authorized by sections 1481 and 1482 of this title or by chapter 23 of title 38.

(c) DEFINITION OF DEPENDENT.—In this section, the term "dependent" has the meaning given such term in section 1072(2) of this title.

(Added Pub. L. 98-94, title X, § 1032(a)(1), Sept. 24, 1983, 97 Stat. 671; amended Pub. L. 100-26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 102-190, div. A, title VI, § 626(a), (b)(1), Dec. 5, 1991, 105 Stat. 1379, 1380; Pub. L. 108-136, div. A, title V, § 562(a), (b), Nov. 24, 2003, 117 Stat. 1483.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, § 562(a)(1), struck out "located in the United States" after "armed forces".

Subsec. (b)(1). Pub. L. 108-136, § 562(a)(2), struck out "outside the United States or to a place" before "further".

Subsec. (c). Pub. L. 108-136, § 562(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "In this section:

"(1) The term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States.

"(2) The term 'dependent' has the meaning given such term in section 1072(2) of this title."

1991—Pub. L. 102-190, § 626(b)(1), amended section catchline generally. Prior to amendment, section catchline read as follows: "Transportation of remains of members entitled to retired or retainer pay who die in a military medical facility".

Subsec. (a). Pub. L. 102-190, § 626(a)(1), inserted ", or a dependent of such a member," after "equivalent pay".

Subsec. (c). Pub. L. 102-190, § 626(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "In this section, the term 'United States' includes the Commonwealth of Puerto Rico and the territories and possessions of the United States."

1987—Subsec. (c). Pub. L. 100-26 inserted "the term" after "In this section,".

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, § 562(c), Nov. 24, 2003, 117 Stat. 1483, provided that: "The amendments made by this section [amending this section] shall apply only with respect to persons dying on or after the date of the enactment of this Act [Nov. 24, 2003]."

EFFECTIVE DATE

Section 1032(b) of Pub. L. 98-94 provided that: "Section 1490 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transportation of the remains of persons dying after September 30, 1983."

§ 1491. Funeral honors functions at funerals for veterans

(a) AVAILABILITY OF FUNERAL HONORS DETAIL ENSURED.—The Secretary of Defense shall ensure that, upon request, a funeral honors detail is provided for the funeral of any veteran, except when military honors are prohibited under section 985(a) of this title.

(b) COMPOSITION OF FUNERAL HONORS DETAILS.—(1) The Secretary of each military department shall ensure that a funeral honors detail for the funeral of a veteran consists of two or more persons.

(2) At least two members of the funeral honors detail for a veteran's funeral shall be members of the armed forces (other than members in a retired status), at least one of whom shall be a member of the armed force of which the veteran was a member. The remainder of the detail may consist of members of the armed forces (including members in a retired status), or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. Each member of the armed forces in the detail shall wear the uniform of the member's armed force while serving in the detail.

(c) CEREMONY.—A funeral honors detail shall, at a minimum, perform at the funeral a ceremony that includes the folding of a United States flag and presentation of the flag to the veteran's family and the playing of Taps. Unless a bugler is a member of the detail, the funeral honors detail shall play a recorded version of Taps using audio equipment which the detail shall provide if adequate audio equipment is not otherwise available for use at the funeral.

(d) SUPPORT.—(1) To support a funeral honors detail under this section, the Secretary of a military department may provide the following:

(A) For a person who participates in a funeral honors detail (other than a person who is a member of the armed forces not in a retired status or an employee of the United States), either transportation (or reimbursement for transportation) and expenses or the daily stipend prescribed under paragraph (2).

(B) For members of a veterans organization or other organization referred to in subsection (b)(2) and for members of the armed forces in a retired status, materiel, equipment, and training.

(C) For members of a veterans organization or other organization referred to in subsection (b)(2), articles of clothing that, as determined by the Secretary concerned, are appropriate as a civilian uniform for persons participating in a funeral honors detail.

(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for

persons participating in funeral honors details who are members of the armed forces in a retired status and other persons who are not members of the armed forces or employees of the United States.

(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 495(a)(2) of title 37 and any other compensation to which the member may be entitled.

(e) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive any requirement provided in or pursuant to this section when the Secretary considers it necessary to do so to meet the requirements of war, national emergency, or a contingency operation or other military requirements. The authority to make such a waiver may not be delegated to an official of a military department other than the Secretary of the military department and may not be delegated within the Office of the Secretary of Defense to an official at a level below Under Secretary of Defense.

(2) Before or promptly after granting a waiver under paragraph (1), the Secretary shall transmit a notification of the waiver to the Committees on Armed Services of the Senate and House of Representatives.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Those regulations shall include the following:

(1) A system for selection of units of the armed forces and other organizations to provide funeral honors details.

(2) Procedures for responding and coordinating responses to requests for funeral honors details.

(3) Procedures for establishing standards and protocol.

(4) Procedures for providing training and ensuring quality of performance.

(g) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, the cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

(h) VETERAN DEFINED.—In this section, the term "veteran" means a decedent who—

(1) served in the active military, naval, or air service (as defined in section 101(24) of title 38) and who was discharged or released therefrom under conditions other than dishonorable; or

(2) was a member or former member of the Selected Reserve described in section 2301(f) of title 38.

(Added Pub. L. 105-261, div. A, title V, §567(b)(1), Oct. 17, 1998, 112 Stat. 2030; amended Pub. L.