

(2) A person described in this paragraph is a person—

(A) whose remains have been interred in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) whose memory has been honored in a memorial area in a cemetery in the National Cemetery Administration or in such an area in Arlington National Cemetery.

(f) For purposes of this section:

(1) The term “Federal capital crime” means an offense under Federal law for which a sentence of imprisonment for life or the death penalty may be imposed.

(2) The term “State capital crime” means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which a sentence of imprisonment for life or the death penalty may be imposed.

(3) The term “appropriate Federal official” means—

(A) the Secretary, in the case of the National Cemetery Administration; and

(B) the Secretary of the Army, in the case of Arlington National Cemetery.

(Added Pub. L. 105–116, §1(a), Nov. 21, 1997, 111 Stat. 2381; amended Pub. L. 105–368, title IV, §403(d)(1), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 107–330, title II, §202, Dec. 6, 2002, 116 Stat. 2824; Pub. L. 109–163, div. A, title VI, §662(a), Jan. 6, 2006, 119 Stat. 3314; Pub. L. 112–260, title I, §105(a), (b), Jan. 10, 2013, 126 Stat. 2421; Pub. L. 113–65, §2(a), (b), Dec. 20, 2013, 127 Stat. 669, 671.)

REFERENCES IN TEXT

The Sex Offender Registration and Notification Act, referred to in subsec. (b)(4)(A), is title I of Pub. L. 109–248, July 27, 2006, 120 Stat. 590, which is classified principally to subchapter I (§16901 et seq.) of chapter 151 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 16901 of Title 42 and Tables.

AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 113–65, §2(b), struck out “such official approves an application for” after “received by the appropriate Federal official before”.

Pub. L. 112–260, §105(b), substituted “, (b)(2), or (b)(4)” for “or (b)(2)” in two places and struck out “capital” before “crime” in two places.

Subsec. (b)(4). Pub. L. 112–260, §105(a), added par. (4).

Subsecs. (d) to (f). Pub. L. 113–65, §2(a), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

2006—Subsec. (b)(1). Pub. L. 109–163, §662(a)(1)(A), substituted “and whose conviction is final (other than a person whose sentence was commuted by the President)” for “for which the person was sentenced to death or life imprisonment”.

Subsec. (b)(2). Pub. L. 109–163, §662(a)(1)(B), substituted “and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State)” for “for which the person was sentenced to death or life imprisonment without parole”.

Subsec. (d)(1). Pub. L. 109–163, §662(a)(2)(A), substituted “a sentence of imprisonment for life or the death penalty may be imposed” for “the death penalty or life imprisonment may be imposed”.

Subsec. (d)(2). Pub. L. 109–163, §662(a)(2)(B), substituted “a sentence of imprisonment for life or the death penalty may be imposed” for “the death penalty or life imprisonment without parole may be imposed”.

2002—Subsec. (a)(2). Pub. L. 107–330 substituted “In the case of a person described in subsection (b)(1) or

(b)(2), the prohibition” for “The prohibition” and “referred to in subsection (b)(1) or (b)(2), as the case may be,” for “or finding under subsection (b)”.

1998—Pub. L. 105–368, §403(d)(1), substituted “Administration” for “System” in section catchline.

Subsecs. (a)(1)(A), (B), (d)(3)(A). Pub. L. 105–368, §403(d)(1), substituted “Administration” for “System”.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–65, §2(c), Dec. 20, 2013, 127 Stat. 671, provided that: “The amendments made by this section [amending this section] shall apply with respect to any interment or memorialization conducted by the Secretary of Veterans Affairs or the Secretary of the Army in a cemetery in the National Cemetery Administration or in Arlington National Cemetery after the date of the enactment of this Act [Dec. 20, 2013].”

Pub. L. 112–260, title I, §105(c), Jan. 10, 2013, 126 Stat. 2421, provided that: “The amendments made by this section [amending this section] shall apply with respect to interments and memorializations that occur on or after the date of the enactment of this Act [Jan. 10, 2013].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 applicable with respect to funerals and burials that occur on or after Jan. 6, 2006, see section 662(e) of Pub. L. 109–163, set out as a note under section 985 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 105–116, §1(c), Nov. 21, 1997, 111 Stat. 2382, provided that: “Section 2411 of title 38, United States Code, as added by subsection (a), shall apply with respect to applications for interment or memorialization made on or after the date of the enactment of this Act [Nov. 21, 1997].”

REGULATIONS

Pub. L. 109–163, div. A, title VI, §662(d)(1), Jan. 6, 2006, 119 Stat. 3315, provided that: “The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.”

§ 2412. Lease of land and buildings

(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).¹

(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Sec-

¹ See References in Text note below.

retary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the "National Cemetery Administration Facilities Operation Fund" (in this section referred to as the "Fund").

(2) The Fund shall consist of the following:

(A) Proceeds from the lease of land or buildings under this section.

(B) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

(C) Any other amounts appropriated to or otherwise authorized for deposit in the Fund by law.

(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

(4) Amounts in the Fund shall remain available until expended.

(Added Pub. L. 108-454, title VI, §602(a), Dec. 10, 2004, 118 Stat. 3623.)

REFERENCES IN TEXT

Section 3709 of the Revised Statutes, referred to in subsec. (c)(1), was classified to section 5 of former Title 41, Public Contracts, and was repealed and restated in section 6101 of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

§ 2413. Prohibition on certain demonstrations and disruptions at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery

(a) PROHIBITION.—It shall be unlawful for any person—

(1) to carry out a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

(2) with respect to such a cemetery, to engage in a demonstration during the period beginning 120 minutes before and ending 120 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

(A)(i) takes place within the boundaries of such cemetery or takes place within 300 feet of the point of the intersection between—

(I) the boundary of such cemetery; and

(II) a road, pathway, or other route of ingress to or egress from such cemetery; and

(ii) includes any individual willfully making or assisting in the making of any noise or diversion—

(I) that is not part of such funeral, memorial service, or ceremony and that disturbs or tends to disturb the peace or good order of such funeral, memorial service, or ceremony; and

(II) with the intent of disturbing the peace or good order of such funeral, memorial service, or ceremony; or

(B)(i) is within 500 feet of the boundary of such cemetery; and

(ii) includes any individual—

(I) willfully and without proper authorization impeding or tending to impede the access to or egress from such cemetery; and

(II) with the intent to impede the access to or egress from such cemetery.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under title 18 or imprisoned for not more than one year, or both.

(c) CIVIL REMEDIES.—(1) The district courts of the United States shall have jurisdiction—

(A) to prevent and restrain violations of this section; and

(B) for the adjudication of any claims for relief under this section.

(2) The Attorney General of the United States may institute proceedings under this section.

(3) Any person, including a surviving member of the deceased person's immediate family, who suffers injury as a result of conduct that violates this section may—

(A) sue therefor in any appropriate United States district court or in any court of competent jurisdiction; and

(B) recover damages as provided in subsection (d) and the cost of the suit, including reasonable attorneys' fees.

(4) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

(d) ACTUAL AND STATUTORY DAMAGES.—(1) In addition to any penalty imposed under subsection (b), a violator of this section is liable in an action under subsection (c) for actual or statutory damages as provided in this subsection.

(2) A person bringing an action under subsection (c)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

(3) In any action brought under subsection (c)(2), the Attorney General is entitled to recover an award of statutory damages for each violation involved in the action notwithstanding any recovery under subsection (c)(3).

(4) A court may award, as the court considers just, statutory damages in a sum of not less than \$25,000 or more than \$50,000 per violation.

(e) REBUTTABLE PRESUMPTION.—It shall be a rebuttable presumption that the violation of subsection (a) was committed willfully for purposes of determining relief under this section if the violator, or a person acting in concert with the violator, did not have reasonable grounds to believe, either from the attention or publicity sought by the violator or other circumstance, that the conduct of such violator or person would not—

(1) disturb or tend to disturb the peace or good order of such funeral, memorial service, or ceremony; or