

1989—Subsec. (b). Pub. L. 101-237 inserted “of the Army” after “Secretary”.

**CONSTRUCTION OF MEMORIAL TO THE CREW OF THE APOLLO I LAUNCH TEST ACCIDENT AT ARLINGTON NATIONAL CEMETERY**

Pub. L. 115-91, div. A, title X, § 1087, Dec. 12, 2017, 131 Stat. 1604, provided that: “Subject to applicable requirements of section 2409(b)(2)(E) of title 38, United States Code, the Secretary of the Army, in consultation with the Administrator of the National Aeronautics and Space Administration, the Commission of Fine Arts, and the Advisory Committee on Arlington National Cemetery, shall authorize the construction, at an appropriate place in Arlington National Cemetery, Virginia, of a memorial marker honoring the three members of the crew of the Apollo I who died during a launch rehearsal test on January 27, 1967, in Cape Canaveral, Florida. The memorial may not be constructed in a location that is otherwise suitable as an interment site.”

**COLUMBIA ORBITER MEMORIAL**

Pub. L. 108-11, title III, Apr. 16, 2003, 117 Stat. 603, provided that:

**“SEC. 301. SHORT TITLE.**

“This title may be cited as the ‘Columbia Orbiter Memorial Act’.

**“SEC. 302. CONSTRUCTION OF MEMORIAL TO CREW OF COLUMBIA ORBITER AT ARLINGTON NATIONAL CEMETERY.**

“(a) **CONSTRUCTION REQUIRED.**—The Secretary of the Army shall, in consultation with the Administrator of the National Aeronautics and Space Administration, construct at an appropriate place in Arlington National Cemetery, Virginia, a memorial marker honoring the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS-107.

“(b) **AVAILABILITY OF FUNDS.**—Of the amount appropriated or otherwise made available by title II of the Department of Defense Appropriations Act, 2003 (Public Law 107-248) under the heading ‘Operation and Maintenance, Army’ [116 Stat. 1521], \$500,000 shall be available for the construction of the memorial marker required by subsection (a).

**“SEC. 303. DONATIONS FOR MEMORIAL FOR CREW OF COLUMBIA ORBITER.**

“(a) **AUTHORITY TO ACCEPT DONATIONS.**—The Administrator of the National Aeronautics and Space Administration may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the purpose of an appropriate memorial or monument to the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS-107, whether such memorial or monument is constructed by the Administrator or is the memorial marker required by section 302.

“(b) **TRANSFER.**—(1) The Administrator may transfer to the Secretary of the Army any services, money, or property accepted by the Administrator under subsection (a) for the purpose of the construction of the memorial marker required by section 302.

“(2) Any moneys transferred to the Secretary under paragraph (1) shall be merged with amounts in the account referred to in subsection (b) of section 302, and shall be available for the purpose referred to in that subsection.

“(c) **EXPIRATION OF AUTHORITY.**—The authority of the Administrator to accept gifts and donations under subsection (a) shall expire 5 years after the date of the enactment of this Act [Apr. 16, 2003].”

**AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE**

Pub. L. 107-330, title II, § 204, Dec. 6, 2002, 116 Stat. 2824, provided that: “The Secretary of the Army is au-

thorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.”

**§ 2410. Burial of cremated remains in Arlington National Cemetery**

(a) The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery for the unmarked interment, in accordance with such regulations as the Secretary may prescribe, of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated. Such area shall be an area not suitable for the burial of casketed remains.

(b) The Secretary of each military department shall make available appropriate forms on which those members of the Armed Forces who so desire may indicate their desire to be buried within the area to be designated under subsection (a).

(c)(1) The Secretary of the Army shall ensure that, under such regulations as the Secretary may prescribe, the cremated remains of any person described in paragraph (2) are eligible for above ground inurnment in Arlington National Cemetery with military honors in accordance with section 1491 of title 10.

(2) A person described in this paragraph is a person whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977 (Public Law 95-202; 38 U.S.C. 106 note) as of the date of the enactment of this paragraph.

(Added Pub. L. 101-237, title V, § 502(a), Dec. 18, 1989, 103 Stat. 2093, § 1010; amended Pub. L. 102-54, § 14(b)(22), June 13, 1991, 105 Stat. 284; renumbered § 2410, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 114-158, § 1(a), May 20, 2016, 130 Stat. 394.)

**REFERENCES IN TEXT**

The date of the enactment of this paragraph, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 114-158, which was approved May 20, 2016.

**AMENDMENTS**

2016—Subsec. (c). Pub. L. 114-158 added subsec. (c).

1991—Pub. L. 102-83 renumbered section 1010 of this title as this section.

Subsec. (b). Pub. L. 102-54 substituted “each military department” for “the military departments”.

**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114-158, § 1(b), May 20, 2016, 130 Stat. 394, provided that:

“(1) **IN GENERAL.**—The amendment made by subsection (a) [amending this section] shall apply with respect to—

“(A) the remains of a person that are not formally interred or inurned as of the date of the enactment of this Act [May 20, 2016]; and

“(B) a person who dies on or after the date of the enactment of this Act.

“(2) **FORMALLY INTERRED OR INURNED DEFINED.**—In this subsection, the term ‘formally interred or inurned’ means interred or inurned in a cemetery, crypt, mausoleum, columbarium, niche, or other similar formal location.”

**§ 2410A. Arlington National Cemetery: other administrative matters**

(a) **ONE GRAVESITE.**—(1) Not more than one gravesite may be provided at Arlington National

Cemetery to a veteran or member of the Armed Forces who is eligible for interment or inurnment at such cemetery.

(2) The Secretary of the Army may waive the prohibition in paragraph (1) as the Secretary of the Army considers appropriate.

(b) PROHIBITION AGAINST RESERVATION OF GRAVESITES.—(1) A gravesite at Arlington National Cemetery may not be reserved for an individual before the death of such individual.

(2)(A) The President may waive the prohibition in paragraph (1) as the President considers appropriate.

(B) Upon waiving the prohibition in paragraph (1), the President shall submit notice of such waiver to—

(i) the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate; and

(ii) the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives.

(Added Pub. L. 112-154, title VI, §602(a), Aug. 6, 2012, 126 Stat. 1199.)

#### EFFECTIVE DATE

Pub. L. 112-154, title VI, §602(c), Aug. 6, 2012, 126 Stat. 1200, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), section 2410A of title 38, United States Code, as added by subsection (a), shall apply with respect to all interments at Arlington National Cemetery after the date of the enactment of this Act [Aug. 6, 2012].

“(2) EXCEPTION.—Subsection (b) of such section, as so added, shall not apply with respect to the interment of an individual for whom a request for a reserved gravesite was approved by the Secretary of the Army before January 1, 1962.”

#### **§ 2411. Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes**

(a)(1) In the case of a person described in subsection (b), the appropriate Federal official may not—

(A) inter the remains of such person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery Administration (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

(2) In the case of a person described in subsection (b)(1), (b)(2), or (b)(4), the prohibition under paragraph (1) shall not apply unless written notice of a conviction referred to in subsection (b)(1), (b)(2), or (b)(4), as the case may be, is received by the appropriate Federal official before the interment or memorialization of such person. Such written notice shall be furnished to such official by the Attorney General, in the case of a Federal crime, or by an appropriate State official, in the case of a State crime.

(b) A person referred to in subsection (a) is any of the following:

(1) A person who has been convicted of a Federal capital crime and whose conviction is

final (other than a person whose sentence was commuted by the President).

(2) A person who has been convicted of a State capital crime and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State).

(3) A person who—

(A) is found (as provided in subsection (c)) to have committed a Federal capital crime or a State capital crime, but

(B) has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution.

(4) A person—

(A) who has been convicted of a Federal or State crime causing the person to be a tier III sex offender for purposes of the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.);<sup>1</sup>

(B) who, for such crime, is sentenced to a minimum of life imprisonment; and

(C) whose conviction is final (other than a person whose sentence was commuted by the President or Governor of a State, as the case may be).

(c) A finding under subsection (b)(3) shall be made by the appropriate Federal official. Any such finding may only be made based upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate Federal official.

(d)(1) In a case described in subsection (e), the appropriate Federal official may reconsider a decision to—

(A) inter the remains of a person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) honor the memory of a person in a memorial area in a cemetery in the National Cemetery Administration (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

(2)(A)(i) In a case described in subsection (e)(1)(A), the appropriate Federal official shall provide notice to the deceased person's next of kin or other person authorized to arrange burial or memorialization of the deceased person of the decision of the appropriate Federal official to disinter the remains of the deceased person or to remove a memorial headstone or marker memorializing the deceased person.

(ii) In a case described in subsection (e)(1)(B), if the appropriate Federal official finds, based upon a showing of clear and convincing evidence and after an opportunity for a hearing in a manner prescribed by the appropriate Federal official, that the person had committed a Federal capital crime or a State capital crime but had not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution, the appropriate Federal official shall provide notice to the deceased person's next of kin or other person authorized to arrange burial or memorialization of the deceased person of the decision of the appropriate Federal official to disinter the re-

<sup>1</sup> See References in Text note below.