

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 112-154, title VII, §701(g), Aug. 6, 2012, 126 Stat. 1205, provided that: "The amendments made by this section [enacting this section and amending sections 3108, 3120, 3703, and 3903 of this title] shall take effect on the date that is one year after the date of the enactment of this Act [Aug. 6, 2012]."

ANNUAL REPORT

Pub. L. 112-154, title VII, §701(f), Aug. 6, 2012, 126 Stat. 1204, provided that:

"(1) IN GENERAL.—Each year, the Secretary of Veterans Affairs shall submit to Congress a report on the assistance provided or action taken by the Secretary in the last fiscal year pursuant to the authorities added by the amendments made by this section [enacting this section and amending sections 3108, 3120, 3703, and 3903 of this title].

"(2) ELEMENTS.—Each report submitted under paragraph (1) shall include the following for the fiscal year covered by the report:

"(A) A description of each natural disaster for which assistance was provided or action was taken as described in paragraph (1).

"(B) The number of cases or individuals, as the case may be, in which or to whom the Secretary provided assistance or took action as described in paragraph (1).

"(C) For each such case or individual, a description of the type or amount of assistance or action taken, as the case may be."

CHAPTER 23—BURIAL BENEFITS

Sec.	
2301.	Flags.
2302.	Funeral expenses.
2303.	Death in Department facility; plot allowance.
2304.	Claims for reimbursement.
2305.	Persons eligible under prior law.
2306.	Headstones, markers, and burial receptacles.
2307.	Death from service-connected disability.
2308.	Transportation of deceased veteran to a national cemetery.

AMENDMENT OF ANALYSIS

Pub. L. 116-315, title II, § 2202(c), (d), Jan. 5, 2021, 134 Stat. 4985, provided that, applicable to deaths that occur on or after the date that is two years after Jan. 5, 2021, this analysis is amended by striking items 2302 and 2303 and inserting new item 2303 "Death from non-service-connected disability; plot allowance". See 2021 Amendment note below.

Pub. L. 116-315, title II, § 2201(d), (e), Jan. 5, 2021, 134 Stat. 4983, 4985, provided that, effective on the date that is two years after Jan. 5, 2021, this analysis is amended by striking item 2308 and inserting new item 2308 "Transportation of deceased veteran to a national cemetery or a covered veterans' cemetery". See 2021 Amendment note below.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-315, title II, §§ 2201(d), 2202(c), Jan. 5, 2021, 134 Stat. 4983, 4985, struck out item 2302 "Funeral expenses", added items 2303 and 2308, and struck out former items 2303 "Death in Department facility; plot allowance" and 2308 "Transportation of deceased veteran to a national cemetery".

1996—Pub. L. 104-275, title II, § 213(b)(2), Oct. 9, 1996, 110 Stat. 3332, substituted "burial receptacles" for "grave liners" in item 2306.

1991—Pub. L. 102-83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 901 to 908 as 2301 to 2308, respectively.

Pub. L. 102-83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted "Department" for "Veterans' Administration" in item 903.

1988—Pub. L. 100-322, title III, § 344(b)(2), May 20, 1988, 102 Stat. 540, substituted "Headstones, markers, and grave liners" for "Headstones and markers" in item 906.

1976—Pub. L. 94-433, title III, § 304(b), Sept. 30, 1976, 90 Stat. 1377, added item 908.

1973—Pub. L. 93-43, § 5(b), June 18, 1973, 87 Stat. 81, inserted "plot allowance" in item 903 and added items 906 and 907.

§ 2301. Flags

(a) The Secretary shall furnish a flag to drape the casket of each—

(1) deceased veteran who—

(A) was a veteran of any war, or of service after January 31, 1955;

(B) had served at least one enlistment; or

(C) had been discharged or released from the active military, naval, air, or space service for a disability incurred or aggravated in line of duty; and

(2) deceased individual who at the time of death was entitled to retired pay under chapter 67¹ of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(b) After the burial of the veteran the flag so furnished shall be given to the veteran's next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(c) For the purpose of this section, the term "Mexican border period" as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916.

(d) In the case of any person who died while in the active military, naval, air, or space service after May 27, 1941, the Secretary shall furnish a flag to the next of kin, or to such other person as the Secretary considers most appropriate, if such next of kin or other person is not otherwise entitled to receive a flag under this section or under section 1482(a) of title 10.

(e) The Secretary shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 2402(a)(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(f)(1) The Secretary shall furnish a flag to drape the casket of each deceased member or former member of the Selected Reserve (as described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10—

(A) who completed at least one enlistment as a member of the Selected Reserve or, in the

¹ See References in Text note below.

case of an officer, completed the period of initial obligated service as a member of the Selected Reserve;

(B) who was discharged before completion of the person's initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in line of duty; or

(C) who died while a member of the Selected Reserve.

(2) A flag may not be furnished under subparagraph (A) or (B) of paragraph (1) in the case of a person whose last discharge from service in the Armed Forces was under conditions less favorable than honorable.

(3) After the burial, a flag furnished under paragraph (1) shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.

(h)(1) The Secretary may not procure any flag for the purposes of this section that is not wholly produced in the United States.

(2)(A) The Secretary may waive the requirement of paragraph (1) if the Secretary determines—

(i) that the requirement cannot be reasonably met; or

(ii) that compliance with the requirement would not be in the national interest of the United States.

(B) The Secretary shall submit to Congress in writing notice of a determination under subparagraph (A) not later than 30 days after the date on which such determination is made.

(3) For the purpose of paragraph (1), a flag shall be considered to be wholly produced in the United States only if—

(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169, §901; Pub. L. 87-240, Sept. 14, 1961, 75 Stat. 512; Pub. L. 89-358, §9, Mar. 3, 1966, 80 Stat. 28; Pub. L. 90-77, title IV, §402, Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-588, §9(g), Dec. 24, 1970, 84 Stat. 1585; Pub. L. 97-306, title IV, §402(a), Oct. 14, 1982, 96 Stat. 1442; Pub. L. 99-576, title VII, §701(50), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §14(b)(20), June 13, 1991, 105 Stat. 284; renumbered §2301 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §11(a), Oct. 28, 1992, 106 Stat. 3644; Pub. L. 105-261, div. A, title V, §517, title X, §1073(a), Oct. 17, 1998, 112 Stat. 2009, 2137; Pub. L. 107-14, §8(a)(3), June 5, 2001, 115 Stat. 34; Pub. L. 107-330, title II, §201(b), Dec. 6, 2002, 116 Stat. 2823; Pub. L. 111-275, title V, §502(d)(2), Oct. 13, 2010, 124

Stat. 2883; Pub. L. 116-283, div. A, title IX, §926(a)(35), Jan. 1, 2021, 134 Stat. 3830.)

Editorial Notes

REFERENCES IN TEXT

Chapter 67 of title 10, referred to in subsec. (a)(2), was transferred to part II of subtitle E of Title 10, Armed Forces, renumbered as chapter 1223, and amended generally by Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998. A new chapter 67 (§1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103-337.

AMENDMENTS

2021—Subsecs. (a)(1)(C), (d). Pub. L. 116-283 substituted “air, or space service” for “or air service”.

2010—Subsec. (e). Pub. L. 111-275 substituted “section 2402(a)(6)” for “section 2402(6)”.

2002—Subsecs. (g), (h). Pub. L. 107-330 added subsec. (g) and redesignated former subsec. (g) as (h).

2001—Subsec. (f)(1). Pub. L. 107-14, §8(a)(3)(A), directed the substitution of “(as described in section” for “(as described in section” in introductory provisions, requiring no change in text.

Subsec. (f)(2). Pub. L. 107-14, §8(a)(3)(B), substituted “subparagraph” for “subparagraphs”.

1998—Subsec. (f). Pub. L. 105-261, §517, added subsec. (f).

Subsec. (g). Pub. L. 105-261, §1073(a), added subsec. (g). 1992—Subsec. (a). Pub. L. 102-547 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary shall furnish a flag to drape the casket of each deceased veteran who—

“(1) was a veteran of any war, or of service after January 31, 1955;

“(2) had served at least one enlistment; or

“(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.”

1991—Pub. L. 102-83, §5(a), renumbered section 901 of this title as this section.

Subsec. (d). Pub. L. 102-54 substituted “considers” for “deems”, struck out comma after “this section”, and struck out “, United States Code” after “title 10”.

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “2402(6)” for “1002(6)”.

1989—Subsecs. (a), (d), (e). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Subsec. (b). Pub. L. 99-576 substituted “the veteran’s” for “his”.

1982—Subsec. (e). Pub. L. 97-306 added subsec. (e).

1970—Subsec. (a). Pub. L. 91-588, §9(g)(1), struck out reference to the Mexican border service.

Subsec. (c). Pub. L. 91-588, §9(g)(2), substituted “For the purpose of this section, the term ‘Mexican border period’ as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916” for “For the purpose of this section, the term ‘Mexican border service’ means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto”.

1967—Subsec. (d). Pub. L. 90-77 added subsec. (d).

1966—Subsec. (a)(1). Pub. L. 89-358 required a flag to be furnished to drape the casket of a deceased veteran who served after Jan. 31, 1955.

1961—Subsec. (a). Pub. L. 87-240, §1(1), inserted “or of Mexican border service” after “veteran of any war”.

Subsec. (c). Pub. L. 87-240, §1(2), added subsec. (c).

Statutory Notes and Related Subsidiaries

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 2002 AMENDMENT

Amendment by Pub. L. 107-330 applicable with respect to deaths occurring on or after Dec. 6, 2002, see section 201(d) of Pub. L. 107-330, set out as a note under section 112 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title X, §1073(b), Oct. 17, 1998, 112 Stat. 2138, provided that: "Subsection (g) of section 2301 of title 38, United States Code, as added by subsection (a), shall apply to flags procured by the Secretary of Veterans Affairs for the purposes of section 2301 of title 38, United States Code, after the end of the 30-day period beginning on the date of the enactment of this Act [Oct. 17, 1998]."

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-306, title IV, §402(b), Oct. 14, 1982, 96 Stat. 1443, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to burials after September 30, 1982."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

§ 2302. Funeral expenses

(a) In the case of a deceased veteran—

(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or

(2) with respect to whom the Secretary determines—

(A) that there is no next of kin or other person claiming the body of the deceased veteran, and

(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Secretary, in the Secretary's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding \$300 to such person as the Secretary prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, air, or space service under section 106(c) of this title.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of the death of such veteran, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the de-

ceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169, §902; Pub. L. 88-359, July 7, 1964, 78 Stat. 296; Pub. L. 89-360, Mar. 7, 1966, 80 Stat. 29; Pub. L. 95-476, title II, §203(b), Oct. 18, 1978, 92 Stat. 1506; Pub. L. 95-479, title III, §303(a), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97-35, title XX, §2001(a)(1), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97-306, title IV, §403(a), Oct. 14, 1982, 96 Stat. 1443; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2302, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 112-260, title I, §104(b)(1), Jan. 10, 2013, 126 Stat. 2420; Pub. L. 116-283, div. A, title IX, §926(a)(36), Jan. 1, 2021, 134 Stat. 3830; Pub. L. 116-315, title II, §2202(a)(1), Jan. 5, 2021, 134 Stat. 4984.)

TRANSFER OF SUBSECTION (b) AND REPEAL OF SECTION

Pub. L. 116-315, title II, §2202(a)(1), (2), (d), Jan. 5, 2021, 134 Stat. 4984, 4985, provided that, applicable to deaths that occur on or after the date that is two years after Jan. 5, 2021, this section is amended as follows:

(1) by transferring subsection (b) of section 2302 to the end of section 2303 of this title and redesignating such subsection as subsection (d); and

(2) by striking this section.

See 2021 Amendment note and Effective Date of 2021 Amendment and Repeal note below.

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 substituted "air, or space service" for "or air service" in concluding provisions.

Subsec. (b). Pub. L. 116-315, §2202(a)(1), transferred subsec. (b) of this section, relating to deduction from burial allowance, to section 2303(d) of this title.

2013—Subsec. (a)(2). Pub. L. 112-260 struck out "who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and" before "with respect to whom" in introductory provisions.

1991—Pub. L. 102-83 renumbered section 902 of this title as this section.

1989—Subsec. (a). Pub. L. 101-237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1982—Subsec. (a). Pub. L. 97-306 substituted requirement of a deceased veteran who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State),