

§ 2305. Persons eligible under prior law

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170, § 905; renumbered § 2305, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

Editorial Notes**AMENDMENTS**

1991—Pub. L. 102-83 renumbered section 905 of this title as this section.

§ 2306. Headstones, markers, and burial receptacles

(a) The Secretary shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 2402(a)(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(4) Any individual described in section 2402(a)(5) of this title who is buried in a veterans' cemetery owned by a State or a veterans' cemetery owned by a tribal organization or on land owned by or held in trust for a tribal organization.

(5) Any individual who at the time of death was entitled to retired pay under chapter 1223 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)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans' cemetery owned by a State, a veterans' cemetery of a tribal organization or on land owned by or held in trust for a tribal organization, or, in the case of a veteran, in a State, local, or private cemetery.

(2) For purposes of paragraph (1), an eligible individual is any of the following:

(A) A veteran.

(B) An individual who dies on or after November 11, 1998, who is the spouse or surviving spouse of a veteran, or the spouse of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the spouse's death if such death occurs before October 1, 2024.

(C) An individual who dies on or after November 11, 1998, who is an eligible dependent

child of a veteran, or the eligible dependent child of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the child's death if such death occurs before October 1, 2024.

(3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual's remains—

(A) have not been recovered or identified;

(B) were buried at sea, whether by the individual's own choice or otherwise;

(C) were donated to science; or

(D) were cremated and the ashes scattered without interment of any portion of the ashes.

(4) For purposes of this subsection:

(A) The term "veteran" includes an individual who dies in the active military, naval, air, or space service.

(B) The term "surviving spouse" includes a surviving spouse who had a subsequent remarriage.

(5) For purposes of this section, the term "eligible dependent child" means a child—

(A) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or

(B) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.

(c) A headstone or marker furnished under subsection (a), (b), or (d) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Secretary (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

(d)(1) The Secretary shall furnish, when requested, an appropriate Government headstone or marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a headstone or marker may be furnished only if the individual making the request for the Government headstone or marker certifies to the Secretary that the headstone or marker will be placed on the grave for which the headstone or marker is requested, or, if placement on the grave is impossible or impracticable, as close as possible to the grave within the grounds of the cemetery in which the grave is located.

(2) Any headstone or marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

(3) The headstone or marker furnished under this subsection shall be the headstone or marker

selected by the individual making the request from among all the headstones and markers made available by the Government for selection.

(4)(A) In lieu of furnishing a headstone or marker under this subsection to a deceased individual described in subparagraph (B), the Secretary may furnish, upon request, a medallion or other device of a design determined by the Secretary to signify the deceased individual's status as a veteran, to be attached to a headstone or marker furnished at private expense.

(B) A deceased individual described in this subsection is an individual who—

(i) served in the Armed Forces on or after April 6, 1917; and

(ii) is eligible for a headstone or marker furnished under paragraph (1) (or would be so eligible but for the date of the death of the individual).

(5)(A) In carrying out this subsection with respect to a deceased individual described in subparagraph (C), the Secretary shall furnish, upon request, a headstone or marker under paragraph (1) or a medallion under paragraph (4) that signifies the deceased's status as a medal of honor recipient.

(B) If the Secretary furnished a headstone, marker, or medallion under paragraph (1) or (4) for a deceased individual described in subparagraph (C) that does not signify the deceased's status as a medal of honor recipient, the Secretary shall, upon request, replace such headstone, marker, or medallion with a headstone, marker, or medallion, as the case may be, that so signifies the deceased's status as a medal of honor recipient.

(C) A deceased individual described in this subparagraph is a deceased individual who—

(i) served in the Armed Forces on or after April 6, 1917;

(ii) is eligible for a headstone or marker furnished under paragraph (1) or a medallion furnished under paragraph (4) (or would be so eligible for such headstone, marker, or medallion but for the date of the death of the individual); and

(iii) was awarded the medal of honor under section 7271, 8291, or 9271 of title 10 or section 491¹ of title 14 (including posthumously).

(D) In this paragraph, the term "medal of honor recipient" means an individual who is awarded the medal of honor under section 7271, 8291, or 9271 of title 10 or section 491¹ of title 14.

(e)(1)(A) The Secretary of Veterans Affairs shall provide an outer burial receptacle for each new grave in an open cemetery under the control of the National Cemetery Administration in which remains are interred in a casket.

(B) The Secretary of the Army may provide an outer burial receptacle for such a grave in the Arlington National Cemetery.

(C) The Secretary of the Interior shall provide an outer burial receptacle for each such a grave in an open national cemetery administered by the National Park Service.

(2) The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration, in the Arlington Na-

tional Cemetery, or in a national cemetery administered by the National Park Service shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs, the Secretary of the Army, or the Secretary of the Interior, respectively.

(3) Regulations or procedures under paragraph (2) may specify that—

(A) an outer burial receptacle other than a grave liner be provided in lieu of a grave liner at the election of the survivors of the interred veteran; and

(B) if an outer burial receptacle other than a grave liner is provided in lieu of a grave liner upon an election of such survivors, such survivors be required—

(i) to pay the amount by which the cost of the outer burial receptacle exceeds the cost of the grave liner that would otherwise have been provided in the absence of the election; and

(ii) to pay the amount of the administrative costs incurred by the Secretary (or the Secretary of the Army with respect to Arlington National Cemetery or the Secretary of the Interior with respect to a national cemetery administered by the National Park Service) in providing the outer burial receptacle in lieu of such grave liner.

(4) Regulations or procedures under paragraph (2) may provide for the use of a voucher system, or other system of reimbursement approved by the Secretary (or the Secretary of the Army with respect to Arlington National Cemetery or the Secretary of the Interior with respect to a national cemetery administered by the National Park Service), for payment for outer burial receptacles other than grave liners provided under such regulations or procedures.

(f)(1) The Secretary may furnish a casket or urn, of such quality as the Secretary considers appropriate for a dignified burial, for burial of a deceased veteran in a covered cemetery in any case in which the Secretary—

(A) is unable to identify the veteran's next of kin, if any; and

(B) determines that sufficient resources for the furnishing of a casket or urn for such burial are not otherwise available.

(2) The term "covered cemetery" means any of the following:

(A) A national cemetery.

(B) A veterans' cemetery of a State for which the Department has provided a grant under section 2408 of this title.

(C) A veterans' cemetery of a tribal organization or on land owned by or held in trust for a tribal organization for which the Department has provided a grant under subsection (f) of such section.

(g)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse or eligible dependent child of such individual.

(2) When the Secretary has furnished a memorial headstone or marker under subsection (b)

¹ See References in Text note below.

for purposes of commemorating a veteran or an individual who died in the active military, naval, air, or space service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse or eligible dependent child of such individual.

(h)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

(3) A headstone or marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

(4) A casket or urn may not be furnished under subsection (f) for burial of a person described in section 2411(b) of this title.

(i)(1) In addition to any other authority under this section, in the case of an individual whose grave is not in a covered cemetery (as that term is defined in subsection (f)(2)) and for whom the Secretary has furnished a headstone or marker under subsection (a) or (d), the Secretary, if feasible and upon request, may replace the headstone or marker to add an inscription for the surviving spouse or eligible dependent child of such individual following the death of the surviving spouse or eligible dependent child.

(2) If the spouse or eligible dependent child of an individual referred to in paragraph (1) predeceases the individual, the Secretary may, if feasible and upon request, include an inscription for the spouse or dependent child on the headstone or marker furnished for the individual under subsection (a) or (d).

(j) In this section, the term "tribal organization" has the meaning given such term in section 3765 of this title.

(Added Pub. L. 93-43, §5(a)(2), June 18, 1973, 87 Stat. 80, §906; amended Pub. L. 95-476, title II, §203(a), Oct. 18, 1978, 92 Stat. 1505; Pub. L. 95-479, title III, §303(b), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 96-385, title V, §502, Oct. 7, 1980, 94 Stat. 1534; Pub. L. 97-66, title VI, §603(a), Oct. 17, 1981, 95 Stat. 1034; Pub. L. 100-322, title III, §344(a), (b)(1), May 20, 1988, 102 Stat. 540; Pub. L. 101-237, title III, §313(b)(1), (3), title V, §§501, 504(a), Dec. 18, 1989, 103 Stat. 2077, 2093, 2094; Pub. L. 101-508, title VIII, §8041(a), Nov. 5, 1990, 104 Stat. 1388-349; renumbered §2306 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §11(b), Oct. 28, 1992, 106 Stat. 3644; Pub. L. 104-275, title II, §213(a), (b)(1), Oct. 9, 1996, 110 Stat. 3331, 3332; Pub. L. 105-368, title IV, §§401(a), (b), 403(c)(2), Nov. 11, 1998, 112 Stat. 3334, 3335, 3338; Pub. L. 107-103, title V, §502(a)-(c), Dec. 27, 2001, 115 Stat. 994, 995; Pub. L. 107-330, title II, §201(c), Dec. 6, 2002, 116 Stat. 2823; Pub. L. 109-444, §2(f), Dec. 21, 2006, 120 Stat. 3305; Pub. L. 109-461, title IV, §§401(a), (b), 402, title X, §1006(b), Dec. 22, 2006, 120 Stat. 3429, 3468; Pub. L. 110-157, title II, §§201, 203(a), Dec. 26, 2007, 121 Stat. 1832, 1833; Pub. L. 110-389, title VIII, §810(a), Oct. 10, 2008, 122 Stat. 4190; Pub. L. 111-275, title V, §502(d)(3), Oct. 13, 2010, 124 Stat. 2883; Pub. L. 112-260, title I, §101(a), Jan. 10, 2013,

126 Stat. 2418; Pub. L. 114-273, §2, Dec. 14, 2016, 130 Stat. 1400; Pub. L. 114-315, title III, §301, Dec. 16, 2016, 130 Stat. 1550; Pub. L. 115-136, §1, Mar. 16, 2018, 132 Stat. 343; Pub. L. 115-184, §2, June 15, 2018, 132 Stat. 1483; Pub. L. 115-232, div. A, title VIII, §809(n)(2), Aug. 13, 2018, 132 Stat. 1843; Pub. L. 115-407, title II, §§201, 202(a), Dec. 31, 2018, 132 Stat. 5372; Pub. L. 116-283, div. A, title IX, §926(a)(38), Jan. 1, 2021, 134 Stat. 3830; Pub. L. 116-315, title II, §§2203(a), 2204(a), 2207(a), Jan. 5, 2021, 134 Stat. 4985, 4986, 4988.)

AMENDMENT OF SECTION

Pub. L. 116-315, title II, §2203, Jan. 5, 2021, 134 Stat. 4985, provided that, effective on the date that is two years after Jan. 5, 2021, subsection (e) of this section is amended as follows:

(1) in subparagraph (A) of paragraph (1):

(A) by striking "shall" and inserting "may"; and

(B) by inserting " , or in a cemetery that is the subject of a grant to a State or a tribal organization under section 2408 of this title," after "National Cemetery Administration";

(2) in subparagraph (C) of paragraph (1), by striking "shall" and inserting "may"; and

(3) by striking paragraph (2) and inserting the following new paragraph (2):

(2)(A) The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration or in a cemetery that is the subject of a grant to a State or a tribal organization under section 2408 of this title shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs.

(B) The use of outer burial receptacles in Arlington National Cemetery shall be in accordance with regulations or procedures approved by the Secretary of the Army.

(C) The use of outer burial receptacles in a national cemetery administered by the National Park Service shall be in accordance with regulations or procedures approved by the Secretary of the Interior.

See 2021 Amendment notes below.

Pub. L. 116-315, title II, §2207, Jan. 5, 2021, 134 Stat. 4988, provided that, effective on the date that is two years after Jan. 5, 2021, this section is amended as follows:

(1) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

(2) by inserting after subsection (g) the following new subsection (h):

(h)(1) In lieu of furnishing a headstone or marker under this section for a deceased individual described in paragraph (3), the Secretary shall furnish, upon request and at the expense of the United States—

(A) an urn made of any material to signify the individual's status as a veteran, in which the remains of such individual may be placed at private expense; or

(B) a commemorative plaque signifying the individual's status as a veteran.

(2) If the Secretary furnishes an urn or commemorative plaque for an individual under paragraph (1), the Secretary may not provide for such individual—

(A) a headstone or marker under this section; or

(B) any burial benefit under section 2402 of this title.

(3) A deceased individual described in this paragraph is an individual—

(A) who served in the Armed Forces on or after April 6, 1917;

(B) who is eligible for a headstone or marker furnished under subsection (d) (or would be so eligible but for the date of the death of the individual); and

(C) whose remains were cremated and not interred in a national cemetery, a State veterans' cemetery, a tribal cemetery, a county cemetery, or a private cemetery.

(4)(A) Any urn or commemorative plaque furnished under this subsection shall be the personal property of the next of kin or such other individual as the Secretary considers appropriate.

(B) The Federal Government shall not be liable for any damage to an urn or commemorative plaque furnished under this subsection that occurs after the date on which the urn or commemorative plaque is so furnished.

(5) The Secretary shall prescribe regulations to carry out this subsection.

See 2021 Amendment notes below.

Editorial Notes

REFERENCES IN TEXT

Section 491 of title 14, referred to in subsec. (d)(5)(C)(iii), (D), was redesignated section 2732 of title 14 by Pub. L. 115-282, title I, §116(b), Dec. 4, 2018, 132 Stat. 4226, and references to section 491 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Redesignated Sections of Title 14 note preceding section 101 of Title 14, Coast Guard.

AMENDMENTS

2021—Subsec. (b)(4)(A). Pub. L. 116-283 substituted “air, or space service” for “or air service”.

Subsec. (e)(1)(A). Pub. L. 116-315, §2203(a)(1)(A), substituted “may” for “shall” and inserted “, or in a cemetery that is the subject of a grant to a State or a tribal organization under section 2408 of this title,” after “National Cemetery Administration”.

Subsec. (e)(1)(C). Pub. L. 116-315, §2203(a)(1)(B), substituted “may” for “shall”.

Subsec. (e)(2). Pub. L. 116-315, §2203(a)(2), added par. (2) and struck out former par. (2) which read as follows: “The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration, in the Arlington National Cemetery, or in a national cemetery administered by the National Park Service shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs, the Secretary of the Army, or the Secretary of the Interior, respectively.”

Subsec. (g)(2). Pub. L. 116-283 substituted “air, or space service” for “or air service”.

Subsec. (h). Pub. L. 116-315, §2207(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 116-315, §2207(a)(1), redesignated subsecs. (h) and (i) as (i) and (j), respectively. Former subsec. (j) redesignated (k).

Pub. L. 116-315, §2204(a), added subsec. (i) and redesignated former subsec. (i) as (j).

Subsec. (k). Pub. L. 116-315, §2207(a)(1), redesignated subsec. (j) as (k).

2018—Subsec. (a)(4). Pub. L. 115-407, §201(1), inserted “or a veterans' cemetery owned by a tribal organization or on land owned by or held in trust for a tribal organization” after “State”.

Subsec. (b)(1). Pub. L. 115-407, §201(2), inserted “, a veterans' cemetery of a tribal organization or on land

owned by or held in trust for a tribal organization” after “owned by a State”.

Subsec. (b)(2)(B). Pub. L. 115-407, §202(a)(1), inserted “, or the spouse of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the spouse's death if such death occurs before October 1, 2024” after “veteran”.

Pub. L. 115-136, §1(1), substituted “An individual who dies on or after November 11, 1998, who is the” for “The”.

Subsec. (b)(2)(C). Pub. L. 115-407, §202(a)(2), inserted “, or the eligible dependent child of a member of the Armed Forces serving on active duty under conditions other than dishonorable, as shown by a statement from a general court-martial convening authority, at the time of the child's death if such death occurs before October 1, 2024” after “veteran”.

Pub. L. 115-136, §1(2), substituted “An individual who dies on or after November 11, 1998, who is an” for “An”.

Subsec. (d)(5)(C)(iii), (D). Pub. L. 115-232 substituted “section 7271, 8291, or 9271 of title 10” for “section 3741, 6241, or 8741 of title 10”.

Subsec. (e)(1). Pub. L. 115-184, §2(1), designated first sentence as subpar. (A) and second sentence as subpar. (B) and added subpar. (C).

Subsec. (e)(2). Pub. L. 115-184, §2(2), substituted “, in the Arlington National Cemetery, or in a national cemetery administered by the National Park Service” for “or in the Arlington National Cemetery” and “, the Secretary of the Army, or the Secretary of the Interior” for “or Secretary of the Army”.

Subsec. (e)(3)(B)(i). Pub. L. 115-184, §2(3), substituted “or the Secretary of the Army with respect to Arlington National Cemetery or the Secretary of the Interior with respect to a national cemetery administered by the National Park Service” for “or, with respect to Arlington National Cemetery, the Secretary of the Army”.

Subsec. (e)(4). Pub. L. 115-184, §2(4), substituted “or the Secretary of the Army with respect to Arlington National Cemetery or the Secretary of the Interior with respect to a national cemetery administered by the National Park Service” for “or, with respect to Arlington National Cemetery, the Secretary of the Army”.

Subsec. (f). Pub. L. 115-407, §201(3), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), substituted “a covered cemetery” for “a national cemetery or in a veterans cemetery of a State or tribal organization for which the Department has provided a grant under section 2408 of this title” in introductory provisions of par. (1), and added par. (2).

Subsec. (i). Pub. L. 115-407, §201(4), added subsec. (i).

2016—Subsec. (d)(4). Pub. L. 114-315, §301(1), added par. (4) and struck out former par. (4) which read as follows: “In lieu of furnishing a headstone or marker under this subsection, the Secretary may furnish, upon request, a medallion or other device of a design determined by the Secretary to signify the deceased's status as a veteran, to be attached to a headstone or marker furnished at private expense.”

Subsec. (d)(5). Pub. L. 114-315, §301(2), added par. (5).

Subsec. (f). Pub. L. 114-273, §2(1) substituted “for burial of a deceased veteran in a national cemetery or in a veterans cemetery of a State or tribal organization for which the Department has provided a grant under section 2408 of this title” for “for burial in a national cemetery of a deceased veteran” in introductory provisions.

Subsec. (f)(2). Pub. L. 114-273, §2(2), substituted “such burial” for “the burial of the veteran in a national cemetery”.

2013—Subsecs. (f) to (h). Pub. L. 112-260, §101(a)(1), (2), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsec. (h)(4). Pub. L. 112-260, §101(a)(3), added par. (4).

2010—Subsec. (a)(2). Pub. L. 111-275, § 502(d)(3)(A), substituted “section 2402(a)(4)” for “section 2402(4)”.

Subsec. (a)(4). Pub. L. 111-275, § 502(d)(3)(B), substituted “section 2402(a)(5)” for “section 2402(5)”.

2008—Subsec. (b)(4)(B). Pub. L. 110-389 substituted “a surviving spouse who had a subsequent remarriage” for “an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce”.

2007—Subsec. (d)(3), (4). Pub. L. 110-157, § 203(a), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “The authority to furnish a marker under this subsection expires on December 31, 2007.”

Subsec. (d)(5). Pub. L. 110-157, § 203(a)(2), redesignated par. (5) as (4).

Pub. L. 110-157, § 201, added par. (5).

2006—Subsec. (b)(2)(C). Pub. L. 109-461, § 401(a)(1), added subpar. (C).

Subsec. (b)(5). Pub. L. 109-461, § 401(a)(2), added par. (5).

Subsec. (d)(1). Pub. L. 109-461, § 402(b)(1)(A)(ii), (c), in second sentence, inserted “headstone or” before “marker” in four places and “, or, if placement on the grave is impossible or impracticable, as close as possible to the grave within the grounds of the cemetery in which the grave is located” before period at end.

Pub. L. 109-461, § 402(b)(1)(A)(i), substituted “Government headstone or marker” for “Government marker” in first sentence.

Subsec. (d)(2). Pub. L. 109-461, § 402(b)(1)(B), (d), inserted “headstone or” before “marker” and “or to a receiving agent for delivery to the cemetery” before period at end.

Subsec. (d)(3). Pub. L. 109-461, § 1006(b), provided that as of the enactment of Pub. L. 109-461, the amendments made by Pub. L. 109-444 were deemed for all purposes not to have taken effect and that Pub. L. 109-444 ceased to be in effect. See Amendment notes below and section 1006(b) of Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Pub. L. 109-461, § 402(a), substituted “December 31, 2007” for “December 31, 2006”.

Pub. L. 109-444, which substituted “December 31, 2007” for “December 31, 2006”, was terminated by Pub. L. 109-461, § 1006(b). See Amendment notes above.

Subsec. (d)(4). Pub. L. 109-461, § 402(f), added par. (4).

Pub. L. 109-461, § 402(e), struck out par. (4) which read as follows: “Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

“(A) The rate of use of the benefit under this subsection, shown by fiscal year.

“(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

“(C) The Secretary's recommendation for extension or repeal of the expiration date specified in paragraph (3).”

Subsec. (f). Pub. L. 109-461, § 401(b), inserted “or eligible dependent child” after “surviving spouse” in pars. (1) and (2).

Subsec. (g)(3). Pub. L. 109-461, § 402(b)(2), inserted “headstone or” before “marker”.

2002—Subsec. (g). Pub. L. 107-330 added subsec. (g).

2001—Subsec. (a)(5). Pub. L. 107-103, § 502(c), substituted “chapter 1223” for “chapter 67”.

Subsec. (c). Pub. L. 107-103, § 502(b), substituted “subsection (a), (b), or (d)” for “subsection (a) or (b)”.

Subsecs. (d) to (f). Pub. L. 107-103, § 502(a), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1998—Subsec. (b). Pub. L. 105-368, § 401(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating any veteran—

“(1) whose remains have not been recovered or identified,

“(2) whose remains were buried at sea, whether by the veteran's own choice or otherwise,

“(3) whose remains were donated to science, or

“(4) whose remains were cremated and the ashes scattered without interment of any portion of the ashes,

for placement by the applicant in a national cemetery area reserved for such purpose under the provisions of section 2403 of this title or in a State, local, or private cemetery.”

Subsec. (d)(1), (2). Pub. L. 105-368, § 403(c)(2), substituted “under the control of the National Cemetery Administration” for “within the National Cemetery System”.

Subsec. (e). Pub. L. 105-368, § 401(b), added subsec. (e). 1996—Pub. L. 104-275, § 213(b)(1), substituted “burial receptacles” for “grave liners” in section catchline.

Subsec. (d)(1). Pub. L. 104-275, § 213(a)(1), substituted “an outer burial receptacle” for “a grave liner” in two places.

Subsec. (d)(2). Pub. L. 104-275, § 213(a)(2), substituted “outer burial receptacles” for “grave liners” and “regulations or procedures” for “specifications and procedures”.

Subsec. (d)(3), (4). Pub. L. 104-275, § 213(a)(3), added pars. (3) and (4).

1992—Subsec. (a)(5). Pub. L. 102-547 added par. (5).

1991—Pub. L. 102-83, § 5(a), renumbered section 906 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted “2402(4)” for “1002(4)” in par. (2) and “2402(5)” for “1002(5)” in par. (4).

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted “2403” for “1003” in concluding provisions.

1990—Subsecs. (d), (e). Pub. L. 101-508 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Secretary, in the Secretary's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such headstone or marker for the cost of acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be. Reimbursement under this subsection may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Secretary, of headstones and markers furnished under subsections (a) and (b) of this section.”

1989—Subsecs. (a) to (c). Pub. L. 101-237, § 313(b)(1), substituted “Secretary” for “Administrator”.

Subsec. (d). Pub. L. 101-237, § 501, substituted “cost of acquiring” for “actual costs incurred by or on behalf of such person in acquiring” in first sentence, inserted after first sentence “The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be.”, and substituted “this subsection” for “the preceding sentence” in last sentence.

Pub. L. 101-237, § 313(b)(1), substituted “Secretary” and “Secretary's” for “Administrator” and “Administrator's”, respectively, wherever appearing.

Subsec. (e)(1). Pub. L. 101-237, § 504(a), inserted first sentence and struck out former first sentence which read as follows: “The Secretary may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket.”

Pub. L. 101-237, § 313(b)(1), substituted “Secretary may provide” for “Administrator may provide”.

Subsec. (e)(2). Pub. L. 101-237, § 313(b)(3), substituted “Secretary of Veterans Affairs or Secretary of the Army” for “Administrator or the Secretary”.

1988—Pub. L. 100-322, §344(b)(1), substituted “Headstones, markers, and grave liners” for “Headstones and markers” in section catchline.

Subsec. (e). Pub. L. 100-322, §344(a), added subsec. (e).
1981—Subsec. (b). Pub. L. 97-66 inserted provisions relating to veterans whose remains were donated to science or whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

1980—Subsec. (a)(4). Pub. L. 96-385 added par. (4).

1978—Subsec. (b). Pub. L. 95-479 struck out “dying in the service, and” after “to commemorate any veteran”.

Subsecs. (c), (d). Pub. L. 95-476 added subsecs. (c) and (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title II, §2203(b), Jan. 5, 2021, 134 Stat. 4986, provided that: “The amendments made by this section [amending this section] shall take effect on the date that is two years after the date of the enactment of this Act [Jan. 5, 2021].”

Pub. L. 116-315, title II, §2204(b), Jan. 5, 2021, 134 Stat. 4986, provided that: “Subsection (i) of section 2306 of title 38, United States Code, as added by subsection (a), shall apply with respect to an individual who dies on or after October 1, 2019.”

Pub. L. 116-315, title II, §2207(b), Jan. 5, 2021, 134 Stat. 4988, provided that: “The amendments made by this section [amending this section] shall take on [sic] effect on the date that is two years after the date of the enactment of this Act [Jan. 5, 2021].”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-260, title I, §101(b), Jan. 10, 2013, 126 Stat. 2418, provided that: “Subsections (f) and (h)(4) of section 2306 of title 38, United States Code, as added by subsection (a), shall take effect on the date that is one year after the date of the enactment of this Act [Jan. 10, 2013] and shall apply with respect to deaths occurring on or after the date that is one year after the date of the enactment of this Act.”

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 2008 AMENDMENT

Pub. L. 110-389, title VIII, §810(b), Oct. 10, 2008, 122 Stat. 4190, provided that: “The amendment made by this section [amending this section] shall apply to deaths occurring on or after the date of the enactment of this Act [Oct. 10, 2008].”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 110-157, title II, §203(b), Dec. 26, 2007, 121 Stat. 1833, provided that: “Notwithstanding subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107-103; 115 Stat. 995; 38 U.S.C. 2306 note) or any other provision of law, the amendments made by that section and by subsections (a), (b), (c), (d), and (f) of section 402 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461; 120 Stat. 3429) [amending this section] shall take effect as of November 1, 1990, and shall apply with respect to headstones and markers

for the graves of individuals dying on or after that date.”

Pub. L. 109-461, title IV, §401(c), Dec. 22, 2006, 120 Stat. 3429, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to individuals dying after the date of the enactment of this Act [Dec. 22, 2006].”

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 2001 AMENDMENT

Amendment by section 502 of Pub. L. 107-103 effective Nov. 1, 1990, and applicable with respect to headstones and markers for the graves of individuals dying on or after that date, see section 203(b) of Pub. L. 110-157, set out as an Effective Date of 2006 Amendment note above.

Pub. L. 107-103, title V, §502(d), Dec. 27, 2001, 115 Stat. 995, as amended by Pub. L. 107-330, title II, §203(a), Dec. 6, 2002, 116 Stat. 2824, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to markers for the graves of individuals dying on or after September 11, 2001.”

[Pub. L. 107-330, title II, §203(b), Dec. 6, 2002, 116 Stat. 2824, provided that: “The amendment made by subsection (a) [amending section 502(d) of Pub. L. 107-103, set out above] shall take effect as if included in the enactment of such section 502.”]

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title IV, §401(d), Nov. 11, 1998, 112 Stat. 3335, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply to deaths occurring after the date of the enactment of this Act [Nov. 11, 1998].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title VIII, §8041(b), Nov. 5, 1990, 104 Stat. 1388-349, provided that: “This section [amending this section] shall apply to deaths occurring on or after November 1, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-237, title V, §504(b), Dec. 18, 1989, 103 Stat. 2094, provided that: “The amendment made by subsection (a) [amending this section] shall apply to interments that occur after January 1, 1990.”

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 applicable only with respect to individuals who die after Sept. 30, 1980, see section 601(c) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95-479, set out as a note under section 1114 of this title.

Amendment by Pub. L. 95-476 effective Oct. 18, 1978, see section 205(a) of Pub. L. 95-476, set out as a note under section 2303 of this title.

EFFECTIVE DATE

Pub. L. 93-43, §10(c), June 18, 1973, 87 Stat. 88, provided that: “Clause (2) of section 5(a) [enacting this section and section 907 [now 2307] of this title] and sections 6 [enacting provisions set out a note under section 2404 of this title] and 7 [repealing sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24,

Hospitals and Asylums, and enacting provisions set out as notes under sections 271 to 276 of Title 24] of this Act shall take effect September 1, 1973, or on such earlier date as the President may prescribe and publish in the Federal Register."

CONTINUATION OF AUTHORITY

Pub. L. 110-92, §162, as added by Pub. L. 110-149, §2, Dec. 21, 2007, 121 Stat. 1819, provided that: "Notwithstanding section 106 [121 Stat. 990], the authority provided by section 2306(d)(3) of title 38, United States Code, shall continue in effect through September 30, 2008."

§ 2307. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Secretary, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) \$2,000, or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 2302 and 2303(a)(1) and (b)(2) of this title.

(Added Pub. L. 93-43, §5(a)(2), June 18, 1973, 87 Stat. 80, §907; amended Pub. L. 95-479, title III, §303(c), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 100-322, title III, §303, May 20, 1988, 102 Stat. 534; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2307 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107-103, title V, §501(a)(1), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title V, §501(b), Dec. 16, 2003, 117 Stat. 2667; Pub. L. 116-315, title II, §2202(b)(1)(B), Jan. 5, 2021, 134 Stat. 4985.)

AMENDMENT OF SECTION

Pub. L. 116-315, title II, §2202(b)(1)(B), (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 section is amended by striking "sections 2302 and 2303(a)(1) and (b)(2) of this title" and inserting "subsections (a)(1) and (b)(2) of section 2303 of this title". See 2021 Amendment note below.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-315 substituted "subsections (a)(1) and (b)(2) of section 2303 of this title" for "sections 2302 and 2303(a)(1) and (b)(2) of this title".

2003—Subsec. (b). Pub. L. 108-183 substituted "and (b)(2)" for "and (b)" in last sentence.

2001—Pub. L. 107-103 substituted "\$2,000" for "\$1,500".

1991—Pub. L. 102-83 renumbered section 907 of this title as this section and substituted "2302 and 2303(a)(1)" for "902 and 903(a)(1)".

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

1988—Pub. L. 100-322 substituted "\$1,500" for "\$1,100".

1978—Pub. L. 95-479 inserted "the greater of (1) \$1,100, or (2)" after "not exceeding".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-315 applicable to deaths that occur on or after the date that is two years after

Jan. 5, 2021, see section 2202(d) of Pub. L. 116-315, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-103, title V, §501(a)(2), Dec. 27, 2001, 115 Stat. 994, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to deaths occurring on or after September 11, 2001."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-322 effective Apr. 1, 1988, see section 304 of Pub. L. 100-322, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95-479, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93-43, set out as a note under section 2306 of this title.

§ 2308. Transportation of deceased veteran to a national cemetery

(a) IN GENERAL.—The Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran described in subsection (b) for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.

(b) DECEASED VETERAN DESCRIBED.—A deceased veteran described in this subsection is any of the following veterans:

(1) A veteran who dies as the result of a service-connected disability.

(2) A veteran who dies while in receipt of disability compensation (or who but for the receipt of retirement pay or pension under this title, would have been entitled to compensation).

(3) A veteran whom the Secretary determines is eligible for funeral expenses under section 2302 of this title by virtue of the Secretary determining that the veteran has no next of kin or other person claiming the body of such veteran pursuant to subsection (a)(2)(A) of such section.

(Added Pub. L. 94-433, title III, §304(a), Sept. 30, 1976, 90 Stat. 1377, §908; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2308 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 112-260, title I, §104(b)(2), Jan. 10, 2013, 126 Stat. 2420; Pub. L. 116-315, title II, §§2201(a)-(c), 2202(b)(1)(C), Jan. 5, 2021, 134 Stat. 4983, 4985.)

AMENDMENT OF SECTION

Pub. L. 116-315, title II, §2201(a)-(c), (e), Jan. 5, 2021, 134 Stat. 4983, provided that, effective on the date that is two years after Jan. 5, 2021, this section is amended as follows:

(1) in the section catchline, by adding at the end "or a covered veterans' cemetery";

(2) in subsection (a), by striking "in a national cemetery" and inserting "in a national cemetery or a covered veterans' cemetery"; and