

(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

(2) impede or tend to impede the access to or egress from such funeral, memorial service, or ceremony.

(f) DEFINITIONS.—In this section—

(1) the term “demonstration” includes—

(A) any picketing or similar conduct;

(B) any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony;

(C) the display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony; and

(D) the distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony; and

(2) the term “immediate family” means, with respect to a person, the immediate family members of such person, as such term is defined in section 115 of title 18.

(Added Pub. L. 109–228, §2(a)(1), May 29, 2006, 120 Stat. 387; amended Pub. L. 112–154, title VI, §601(c)(1), Aug. 6, 2012, 126 Stat. 1197.)

Editorial Notes

AMENDMENTS

2012—Pub. L. 112–154 amended section generally. Prior to amendment, section prohibited unapproved dem-

onstrations at cemeteries under control of National Cemetery Administration and at Arlington National Cemetery that occurred during period beginning 60 minutes before and ending 60 minutes after a funeral, memorial service, or ceremony within 150 feet of a road, pathway, or other route of ingress to or egress from such cemetery property or within 300 feet of such cemetery and impeded the access to or egress from such cemetery.

Statutory Notes and Related Subsidiaries

CONSTRUCTION

Pub. L. 109–228, §2(b), May 29, 2006, 120 Stat. 388, provided that: “Nothing in section 2413 of title 38, United States Code (as amended by subsection (a)), shall be construed as limiting the authority of the Secretary of Veterans Affairs, with respect to property under control of the National Cemetery Administration, or the Secretary of the Army, with respect to Arlington National Cemetery, to issue or enforce regulations that prohibit or restrict conduct that is not specifically covered by section 2413 of such title (as so added).”

§ 2414. Communication between Department of Veterans Affairs and medical examiners and funeral directors

(a) REQUIRED INFORMATION.—With respect to each deceased veteran described in subsection (b) who is transported to a national cemetery for burial, the Secretary shall ensure that the local medical examiner, funeral director, county service group, or other entity responsible for the body of the deceased veteran before such transportation submits to the Secretary the following information:

(1) Whether the deceased veteran was cremated.

(2) The steps taken to ensure that the deceased veteran has no next of kin.

(b) DECEASED VETERAN DESCRIBED.—A deceased veteran described in this subsection is a deceased veteran—

(1) with respect to whom the Secretary determines that there is no next of kin or other person claiming the body of the deceased veteran; and

(2) who does not have sufficient resources for the furnishing of a casket or urn for the burial of the deceased veteran in a national cemetery, as determined by the Secretary.

(Added Pub. L. 112–260, title I, §103(a), Jan. 10, 2013, 126 Stat. 2419.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 112–260, title I, §103(c), Jan. 10, 2013, 126 Stat. 2420, provided that: “Section 2414 of title 38, United States Code, as added by subsection (a), shall take effect on 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 180 days after the date of the enactment of this Act.”

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