

Public Law 105-116  
105th Congress

An Act

To amend title 38, United States Code, to prohibit interment or memorialization in certain cemeteries of persons committing Federal or State capital crimes.

Nov. 21, 1997  
[S. 923]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DENIAL OF ELIGIBILITY FOR INTERMENT OR MEMORIALIZATION IN CERTAIN CEMETERIES OF PERSONS COMMITTING FEDERAL CAPITAL CRIMES.**

(a) PROHIBITION AGAINST INTERMENT OR MEMORIALIZATION IN CERTAIN FEDERAL CEMETERIES.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 2411. Prohibition against interment or memorialization in the National Cemetery System 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 System or in Arlington National Cemetery; or

“(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery System (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) The prohibition under paragraph (1) shall not apply unless written notice of a conviction or finding under subsection (b) is received by the appropriate Federal official before such official approves an application for 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 capital crime, or by an appropriate State official, in the case of a State capital 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 for which the person was sentenced to death or life imprisonment.

“(2) A person who has been convicted of a State capital crime for which the person was sentenced to death or life imprisonment without parole.

“(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.

“(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) For purposes of this section:

“(1) The term ‘Federal capital crime’ means an offense under Federal law for which the death penalty or life imprisonment 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 the death penalty or life imprisonment without parole may be imposed.

“(3) The term ‘appropriate Federal official’ means—

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

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 24 of such title is amended by adding at the end the following new item:

“2411. Prohibition against interment or memorialization in the National Cemetery System or Arlington National Cemetery of persons committing Federal or State capital crimes.”

(c) EFFECTIVE DATE.—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.

## SEC. 2. CONDITION ON GRANTS TO STATE-OWNED VETERAN CEMETERIES.

Section 2408 of title 38, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d)(1) In addition to the conditions specified in subsections (b) and (c), any grant made on or after the date of the enactment of this subsection to a State under this section to assist such State in establishing, expanding, or improving a veterans’ cemetery shall be made on the condition described in paragraph (2).

“(2) For purposes of paragraph (1), the condition described in this paragraph is that, after the date of the receipt of the grant, such State prohibit the interment or memorialization in that cemetery of a person described in section 2411(b) of this title, subject to the receipt of notice described in subsection (a)(2) of such section, except that for purposes of this subsection—

“(A) such notice shall be furnished to an appropriate official of such State; and

“(B) a finding described in subsection (b)(3) of such section shall be made by an appropriate official of such State.”.

Approved November 21, 1997.

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LEGISLATIVE HISTORY—S. 923:

HOUSE REPORTS: No. 105-319 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 143 (1997):

June 18, considered and passed Senate.

Oct. 31, considered and passed House, amended.

Nov. 10, Senate concurred in House amendments.