

**TITLE 38 - VETERANS BENEFITS**  
**PART II - GENERAL BENEFITS**  
**CHAPTER 23 - BURIAL BENEFITS**

**§ 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.
  - (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, 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) The spouse or surviving spouse of a veteran.
    - (C) An eligible dependent child of a veteran.
  - (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, or air 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

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- (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) 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.
- (e) (1) 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. The Secretary of the Army may provide an outer burial receptacle for such a grave in the Arlington National Cemetery.
- (2) The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration or in the Arlington National Cemetery shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs or Secretary of the Army, 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, with respect to Arlington National Cemetery, the Secretary of the Army) 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, with respect to Arlington National Cemetery, the Secretary of the Army), for payment for outer burial receptacles other than grave liners provided under such regulations or procedures.
- (f) (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) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or

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marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse or eligible dependent child of such individual.

- (g) (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.

(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.)

## Amendments

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”.

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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

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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).

### **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.

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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**

Section 8041(b) of Pub. L. 101–508 provided that: “This section [amending this section] shall apply to deaths occurring on or after November 1, 1990.”

### **Effective Date of 1989 Amendment**

Section 504(b) of Pub. L. 101–237 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**

Section 10(c) of Pub. L. 93–43 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.”