

113TH CONGRESS
1ST SESSION

S. 1471

To authorize the Secretary of Veterans Affairs and the Secretary of the Army to reconsider decisions to inter or honor the memory of a person in a national cemetery, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2013

Mr. COATS (for himself, Mr. DONNELLY, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To authorize the Secretary of Veterans Affairs and the Secretary of the Army to reconsider decisions to inter or honor the memory of a person in a national cemetery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alicia Dawn Koehl
5 Respect for National Cemeteries Act”.

1 **SEC. 2. AUTHORITY TO RECONSIDER DECISIONS OF SEC-**
 2 **RETARY OF VETERANS AFFAIRS OR SEC-**
 3 **RETARY OF THE ARMY TO INTER THE RE-**
 4 **MAINS OR HONOR THE MEMORY OF A PER-**
 5 **SON IN A NATIONAL CEMETERY.**

6 (a) AUTHORITY TO RECONSIDER PRIOR DECI-
 7 SIONS.—Section 2411 of title 38, United States Code, is
 8 amended—

9 (1) by redesignating subsection (d) as sub-
 10 section (e); and

11 (2) by inserting after subsection (c) the fol-
 12 lowing new subsection (d):

13 “(d)(1) In a case described in paragraph (2)(A), the
 14 appropriate Federal official may reconsider a decision to—

15 “(A) inter the remains of a person in a ceme-
 16 tery in the National Cemetery Administration or in
 17 Arlington National Cemetery; or

18 “(B) honor the memory of a person in a memo-
 19 rial area in a cemetery in the National Cemetery Ad-
 20 ministration (described in section 2403(a) of this
 21 title) or in such an area in Arlington National Ceme-
 22 tery (described in section 2409(a) of this title).

23 “(2)(A) A case described in this paragraph is a case
 24 in which the appropriate Federal official receives informa-
 25 tion that a person described in subparagraph (B) may
 26 have committed a Federal capital crime or a State capital

1 crime but was not convicted of such crime by reason of
2 such person not being available for trial due to death or
3 flight to avoid prosecution.

4 “(B) A person described in this subparagraph is a
5 person—

6 “(i) whose remains have been interred in a cem-
7 etery in the National Cemetery Administration or in
8 Arlington National Cemetery; or

9 “(ii) whose memory has been honored in a me-
10 morial area in a cemetery in the National Cemetery
11 Administration or in such an area in Arlington Na-
12 tional Cemetery.

13 “(3)(A) If in a case described in paragraph (2), the
14 appropriate Federal official finds, based upon a showing
15 of clear and convincing evidence and after an opportunity
16 for a hearing in a manner prescribed by the appropriate
17 Federal official, that the person had committed a Federal
18 capital crime or a State capital crime but had not been
19 convicted of such crime by reason of such person not being
20 available for trial due to death or flight to avoid prosecu-
21 tion, the appropriate Federal official shall provide notice
22 to the deceased person’s next of kin or other person au-
23 thorized to arrange burial or memorialization of the de-
24 ceased person of the decision of the appropriate Federal
25 official to disinter the remains of the deceased person or

1 to remove a memorial headstone or marker memorializing
2 the deceased person.

3 “(B) Notice under subparagraph (A) shall be pro-
4 vided by the appropriate Federal official as follows:

5 “(i) By the Secretary in accordance with section
6 5104 of this title.

7 “(ii) By the Secretary of Defense in accordance
8 with such regulations as the Secretary of Defense
9 shall prescribe for purposes of this subsection.

10 “(4)(A) Notwithstanding any other provision of law,
11 the next of kin or other person authorized to arrange bur-
12 ial or memorialization of the deceased person shall be al-
13 lowed a period of 60 days from the date of the notice re-
14 quired by paragraph (3) to file a notice of disagreement
15 with the Federal official that provided the notice.

16 “(B)(i) A notice of disagreement filed with the Sec-
17 retary under subparagraph (A) shall be treated as a notice
18 of disagreement filed with the Board of Veterans’ Appeals
19 under chapter 71 of this title, and shall be decided by the
20 Board in accordance with the provisions of that chapter.

21 “(ii) A notice of disagreement filed with the Secretary
22 of Defense under subparagraph (A) shall be decided in
23 accordance with such regulations as the Secretary of De-
24 fense shall prescribe for purposes of this subsection.

1 “(5) When the decision of the appropriate Federal
2 official to disinter the remains or remove a memorial head-
3 stone or marker of the deceased person becomes final ei-
4 ther by failure to appeal the decision in accordance with
5 paragraph (4)(A) or by a decision pursuant to paragraph
6 (4)(B), the appropriate Federal official may take any of
7 the following actions:

8 “(A) Disinter the remains of the person from
9 the cemetery in the National Cemetery Administra-
10 tion or in Arlington National Cemetery and provide
11 for the reburial or other appropriate disposition of
12 the disinterred remains in a place other than a cem-
13 etery in the National Cemetery Administration or in
14 Arlington National Cemetery.

15 “(B) Remove from a memorial area in a ceme-
16 tery in the National Cemetery Administration or in
17 Arlington National Cemetery any memorial head-
18 stone or marker placed to honor the memory of the
19 person.”.

20 (b) APPLICABILITY.—The amendments made by sub-
21 section (a) shall apply with respect to any interment or
22 memorialization conducted by the Secretary of Veterans
23 Affairs or the Secretary of the Army in a cemetery in the
24 National Cemetery Administration or in Arlington Na-

1 tional Cemetery after the date of the enactment of this
 2 Act.

3 **SEC. 3. DISINTERMENT OF REMAINS OF MICHAEL**
 4 **LASHAWN ANDERSON FROM FORT CUSTER**
 5 **NATIONAL CEMETERY.**

6 (a) DISINTERMENT OF REMAINS.—The Secretary of
 7 Veterans Affairs shall disinter the remains of Michael
 8 LaShawn Anderson from Fort Custer National Cemetery.

9 (b) NOTIFICATION OF NEXT-OF-KIN.—The Secretary
 10 of Veterans Affairs shall—

11 (1) notify the next-of-kin of record for Michael
 12 LaShawn Anderson of the impending disinterment
 13 of his remains; and

14 (2) upon disinterment, relinquish the remains
 15 to the next-of-kin of record for Michael LaShawn
 16 Anderson or, if the next-of-kin of record for Michael
 17 LaShawn Anderson is unavailable, arrange for an
 18 appropriate disposition of the remains.

○