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113TH CONGRESS
1ST SESSION

H. R. 3106

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 HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2013

Mrs. BROOKS of Indiana (for herself, Mr. MESSER, Mr. STUTZMAN, and Mr. ROKITA) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alicia Dawn Koehl Respect for National Cemeteries Act".

SEC. 2. AUTHORITY TO RECONSIDER DECISIONS OF SECRETARY OF VETERANS AFFAIRS OR SECRETARY OF THE ARMY TO INTER THE REMAINS OR HONOR THE MEMORY OF A PERSON IN A NATIONAL CEMETERY.

(a) AUTHORITY TO RECONSIDER PRIOR DECISIONS.—Section 2411 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):

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

''(A) inter the remains of a person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

''(B) honor the memory of a person in a memorial area in a cemetery in the National Cemetery Administration (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)(A) A case described in this paragraph is a case in which the appropriate Federal official receives information that a person described in subparagraph (B) may have committed a Federal capital crime or a State capital

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

"(B) A person described in this subparagraph is a person—

"(i) whose remains have been interred in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

"(ii) whose memory has been honored in a memorial area in a cemetery in the National Cemetery Administration or in such an area in Arlington National Cemetery.

"(3)(A) If in a case described in paragraph (2), the appropriate Federal official finds, based upon a showing of clear and convincing evidence and after an opportunity for a hearing in a manner prescribed by the appropriate Federal official, that the person had committed a Federal capital crime or a State capital crime but had not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution, the appropriate Federal official shall provide notice to the deceased person's next of kin or other person authorized to arrange burial or memorialization of the deceased person of the decision of the appropriate Federal official to disinter the remains of the deceased person or

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

"(B) Notice under subparagraph (A) shall be provided by the appropriate Federal official as follows:

"(i) By the Secretary in accordance with section 5104 of this title.

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

"(4)(A) Notwithstanding any other provision of law, the next of kin or other person authorized to arrange burial or memorialization of the deceased person shall be allowed a period of 60 days from the date of the notice required by paragraph (3) to file a notice of disagreement with the Federal official that provided the notice.

"(B)(i) A notice of disagreement filed with the Secretary under subparagraph (A) shall be treated as a notice of disagreement filed with the Board of Veterans' Appeals under chapter 71 of this title, and shall be decided by the Board in accordance with the provisions of that chapter.

"(ii) A notice of disagreement filed with the Secretary of Defense under subparagraph (A) shall be decided in accordance with such regulations as the Secretary of Defense shall prescribe for purposes of this subsection.

"(5) When the decision of the appropriate Federal official to disinter the remains or remove a memorial headstone or marker of the deceased person becomes final either by failure to appeal the decision in accordance with paragraph (4)(A) or by a decision pursuant to paragraph (4)(B), the appropriate Federal official may take any of the following actions:

"(A) Disinter the remains of the person from the cemetery in the National Cemetery Administration or in Arlington National Cemetery and provide for the reburial or other appropriate disposition of the disinterred remains in a place other than a cemetery in the National Cemetery Administration or in Arlington National Cemetery.

"(B) Remove from a memorial area in a cemetery in the National Cemetery Administration or in Arlington National Cemetery any memorial headstone or marker placed to honor the memory of the person.".

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

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

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

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

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

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

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

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