

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To guarantee that military funerals are conducted with dignity and respect.

---

IN THE SENATE OF THE UNITED STATES

---

Ms. SNOWE introduced the following bill; which was read twice and referred  
to the Committee on \_\_\_\_\_

---

**A BILL**

To guarantee that military funerals are conducted with  
dignity and respect.

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 “Sanctity of Eternal  
5 Rest for Veterans Act of 2011” or the “SERVE Act of  
6 2011”.

7 **SEC. 2. PURPOSE AND AUTHORITY.**

8 (a) **PURPOSE.**—The purpose of this Act is to provide  
9 necessary and proper support for the recruitment and re-  
10 tention of the Armed Forces and militia employed in the  
11 service of the United States by protecting the dignity of

1 the service of the members of such Forces and militia, and  
2 by protecting the privacy of their immediate family mem-  
3 bers and other attendees during funeral services for such  
4 members.

5 (b) CONSTITUTIONAL AUTHORITY.—Congress finds  
6 that this Act is a necessary and proper exercise of its pow-  
7 ers under the Constitution, Article I, Section 8, para-  
8 graphs 1, 12, 13, 14, 16 and 18, to provide for the com-  
9 mon defense, raise and support armies, provide and main-  
10 tain a navy, make rules for the government and regulation  
11 of the land and naval forces, and provide for organizing  
12 and governing such part of the militia as may be employed  
13 in the service of the United States.

14 **SEC. 3. AMEND TO TITLE 18.**

15 Section 1388 of title 18, United States Code is  
16 amended to read as follows:

17 **“§ 1388. Prohibition on disruptions of funerals of**  
18 **members or former members of the**  
19 **armed forces**

20 “(a) PROHIBITION.—For any funeral of a member or  
21 former member of the Armed Forces that is not located  
22 at a cemetery under the control of the National Cemetery  
23 Administration or part of Arlington National Cemetery,  
24 it shall be unlawful for any person to engage in an activity  
25 during the period beginning 120 minutes before and end-

1 ing 120 minutes after such funeral, any part of which ac-  
2 tivity—

3 “(1)(A) takes place within the boundaries of the  
4 location of such funeral or takes place within 300  
5 feet of the point of the intersection between—

6 “(i) the boundary of the location of such  
7 funeral; and

8 “(ii) a road, pathway, or other route of in-  
9 gress to or egress from the location of such fu-  
10 neral; and

11 “(B) includes any individual willfully making or  
12 assisting in the making of any noise or diversion  
13 that is not part of such funeral and that disturbs or  
14 tends to disturb the peace or good order of such fu-  
15 neral;

16 “(2)(A) is within 500 feet of the boundary of  
17 the location of such funeral; and

18 “(B) includes any individual willfully and with-  
19 out proper authorization impeding or tending to im-  
20 pede the access to or egress from such location or  
21 disrupting or tending to disrupt a funeral proces-  
22 sion; or

23 “(3) is within 500 feet of the boundary of the  
24 residence, home or domicile of any surviving member  
25 of the deceased person’s immediate family and in-

1 includes any individual willfully making or assisting in  
2 the making of any noise or diversion that disturbs  
3 or tends to disturb the peace of the persons located  
4 at such location.

5 “(b) PENALTY.—Any person who violates subsection  
6 (a) shall be fined under this title or imprisoned not more  
7 than 2 years, or both.

8 “(c) CIVIL REMEDIES.—

9 “(1) DISTRICT COURTS.—The district courts of  
10 the United States shall have jurisdiction—

11 “(A) to prevent and restrain violations of  
12 this section; and

13 “(B) for the adjudication of any claims for  
14 relief under this section.

15 “(2) ATTORNEY GENERAL.—The Attorney Gen-  
16 eral may institute proceedings under this section.

17 “(3) CLAIMS.—Any person, including a sur-  
18 viving member of the deceased person’s immediate  
19 family, who suffers injury as a result of conduct that  
20 violates this section may—

21 “(A) sue therefor in any appropriate  
22 United States district court or in any court of  
23 competent jurisdiction; and

1           “(B) recover damages as provided in sub-  
2           section (d) and the cost of the suit, including  
3           reasonable attorneys’ fees.

4           “(4) ESTOPPEL.—A final judgment or decree  
5           rendered in favor of the United States in any crimi-  
6           nal proceeding brought by the United States under  
7           this section shall estop the defendant from denying  
8           the essential allegations of the criminal offense in  
9           any subsequent civil proceeding brought by a person  
10          or by the United States.

11          “(d) ACTUAL AND STATUTORY DAMAGES.—

12           “(1) IN GENERAL.—In addition to any penalty  
13           imposed under subsection (b), a violator of this sec-  
14           tion is liable in an action under subsection (c) for  
15           actual or statutory damages as provided in this sub-  
16           section.

17           “(2) ACTIONS BY PRIVATE PERSONS.—A person  
18           bringing an action under subsection (c)(3) may elect,  
19           at any time before final judgment is rendered, to re-  
20           cover the actual damages suffered by him or her as  
21           a result of the violation or, instead of actual dam-  
22           ages, an award of statutory damages for each viola-  
23           tion involved in the action.

24           “(3) ACTIONS BY ATTORNEY GENERAL.—The  
25           Attorney General under subsection (c)(2) is entitled

1 to recover an award of statutory damages for each  
2 violation involved in the action notwithstanding any  
3 recovery under subsection (c)(3).

4 “(4) STATUTORY DAMAGES.—A court may  
5 award, as the court considers just, statutory dam-  
6 ages in a sum of not less than \$25,000 or more than  
7 \$50,000 per violation.

8 “(e) REBUTTABLE PRESUMPTION.—It shall be a re-  
9 buttable presumption that the violation was committed  
10 willfully for purposes of determining relief under this sec-  
11 tion if the violator, or a person acting in concert with the  
12 violator, did not have reasonable grounds to believe, either  
13 from the attention or publicity sought by the violator or  
14 other circumstance, that the conduct of such violator or  
15 person would not disturb or tend to disturb the peace or  
16 good order of such funeral, impede or tend to impede the  
17 access to or egress from such funeral, disrupt or tend dis-  
18 rupt to a funeral procession, or disturb or tend to disturb  
19 the peace of any surviving member of the deceased  
20 person’s immediate family who may be found at the resi-  
21 dence, home or domicile of the deceased person’s imme-  
22 diate family on the date of the service or ceremony.

23 “(f) DEFINITIONS.—In this section—

24 “(1) the term ‘Armed Forces’ has the meaning  
25 given the term in section 101 of title 10 and in-

1 includes members and former members of the Na-  
2 tional Guard who were employed in the service of  
3 the United States; and

4 “(2) the term ‘immediate family’ shall have the  
5 same meaning given such term in section 115 of this  
6 title.”.

7 **SEC. 4. AMENDMENT TO TITLE 38.**

8 (a) IN GENERAL.—Section 2413 of title 38, United  
9 States Code, is amended to read as follows:

10 **“§ 2413. Prohibition on certain demonstrations and**  
11 **disruptions at cemeteries under control**  
12 **of the National Cemetery Administration**  
13 **and at Arlington National Cemetery**

14 “(a) PROHIBITION.—It shall be unlawful for any per-  
15 son—

16 “(1) to carry out a demonstration on the prop-  
17 erty of a cemetery under the control of the National  
18 Cemetery Administration or on the property of Ar-  
19 lington National Cemetery unless the demonstration  
20 has been approved by the cemetery superintendent  
21 or the director of the property on which the ceme-  
22 tery is located; or

23 “(2) with respect to such a cemetery, to engage  
24 in an activity during the period beginning 120 min-  
25 utes before and ending 120 minutes after a funeral,

1 memorial service, or ceremony is held, any part of  
2 which activity—

3 “(A)(i) takes place within the boundaries  
4 of such cemetery or takes place within 300 feet  
5 of the point of the intersection between—

6 “(I) the boundary of such cemetery;

7 and

8 “(II) a road, pathway, or other route  
9 of ingress to or egress from such cemetery;

10 and

11 “(ii) includes any individual willfully mak-  
12 ing or assisting in the making of any noise or  
13 diversion that is not part of such funeral, me-  
14 morial service, or ceremony and that disturbs or  
15 tends to disturb the peace or good order of such  
16 funeral, memorial service, or ceremony; or

17 “(B)(i) is within 500 feet of the boundary  
18 of such cemetery; and

19 “(ii) includes any individual willfully and  
20 without proper authorization impeding or tend-  
21 ing to impede the access to or egress from such  
22 cemetery or disrupting or tending to disrupt a  
23 funeral procession.

1           “(b) PENALTY.—Any person who violates subsection  
2 (a) shall be fined under title 18 or imprisoned not more  
3 than 2 years, or both.

4           “(c) CIVIL REMEDIES.—(1) The district courts of the  
5 United States shall have jurisdiction—

6                   “(A) to prevent and restrain violations of this  
7 section; and

8                   “(B) for the adjudication of any claims for re-  
9 lief under this section.

10           “(2) The Attorney General of the United States may  
11 institute proceedings under this section.

12           “(3) Any person, including a surviving member of the  
13 deceased person’s immediate family, who suffers injury as  
14 a result of conduct that violates this section may—

15                   “(A) sue therefor in any appropriate United  
16 States district court or in any court of competent ju-  
17 risdiction; and

18                   “(B) recover damages as provided in subsection  
19 (d) and the cost of the suit, including reasonable at-  
20 torneys’ fees.

21           “(4) A final judgment or decree rendered in favor of  
22 the United States in any criminal proceeding brought by  
23 the United States under this section shall estop the de-  
24 fendant from denying the essential allegations of the

1 criminal offense in any subsequent civil proceeding  
2 brought by a person or by the United States.

3 “(d) ACTUAL AND STATUTORY DAMAGES.—(1) In  
4 addition to any penalty imposed under subsection (b), a  
5 violator of this section is liable in an action under sub-  
6 section (c) for actual or statutory damages as provided  
7 in this subsection.

8 “(2) A person bringing an action under subsection  
9 (c)(3) may elect, at any time before final judgment is ren-  
10 dered, to recover the actual damages suffered by him or  
11 her as a result of the violation or, instead of actual dam-  
12 ages, an award of statutory damages for each violation  
13 involved in the action.

14 “(3) The Attorney General under subsection (c)(2)  
15 is entitled to recover an award of statutory damages for  
16 each violation involved in the action notwithstanding any  
17 recovery under subsection (c)(3).

18 “(4) A court may award, as the court considers just,  
19 statutory damages in a sum of not less than \$25,000 or  
20 more than \$50,000 per violation.

21 “(e) REBUTTABLE PRESUMPTION.—It shall be a re-  
22 buttable presumption that the violation of subsection  
23 (a)(2) was committed willfully for purposes of determining  
24 relief under this section if the violator, or a person acting  
25 in concert with the violator, did not have reasonable

1 grounds to believe, either from the attention or publicity  
2 sought by the violator or other circumstance, that the con-  
3 duct of such violator or person would not—

4 “(1) disturb or tend to disturb the peace or  
5 good order of such funeral, memorial service, or  
6 ceremony; or

7 “(2) impede or tend to impede the access to or  
8 egress from such funeral, memorial service, or cere-  
9 mony; or

10 “(3) disrupt or tend to disrupt a funeral proces-  
11 sion.

12 “(f) DEFINITIONS.—In this section—

13 “(1) the term ‘demonstration’ includes—

14 “(A) any picketing or similar conduct;

15 “(B) any oration, speech, use of sound am-  
16 plification equipment or device, or similar con-  
17 duct that is not part of a funeral, memorial  
18 service, or ceremony;

19 “(C) the display of any placard, banner,  
20 flag, or similar device, unless such a display is  
21 part of a funeral, memorial service, or cere-  
22 mony; and

23 “(D) the distribution of any handbill, pam-  
24 phlet, leaflet, or other written or printed matter

1 other than a program distributed as part of a  
2 funeral, memorial service, or ceremony; and

3 “(2) the term ‘immediate family’ shall have the  
4 same meaning given such term in section 115 of title  
5 18.”.

6 (b) CLERICAL AMENDMENT.—The table of sections  
7 at the beginning of chapter 24 of such title is amended  
8 by striking the item relating to section 2413 and inserting  
9 the following new item:

“2413. Prohibition on certain demonstrations and disruptions at cemeteries  
under control of the National Cemetery Administration and at  
Arlington National Cemetery.”.