

## CHAPTER 79

AN ACT creating a New Jersey POW-MIA medal, supplementing Title 38A of the Revised Statutes .

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.38A:15-4 Creation of New Jersey POW-MIA medal; award, conditions.

1. a. The Governor may present in the name of the State of New Jersey a POW-MIA medal of appropriate design, and ribbon to be worn in lieu thereof, to:

(1) any person who, on the date of induction into the organized militia or federal military service, was a resident of this State and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during time of war or emergency, shall have been officially listed as a prisoner of war or missing in action by the United States Department of Defense; or

(2) any person who, on the date of induction into the organized militia or federal military service, was not a resident of this State but currently resides in this State or was a resident at time of death and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during time of war or emergency, shall have been officially listed as a prisoner of war or missing in action by the United States Department of Defense; and

(3) was taken prisoner and held captive or declared missing in action: (a) while engaged in an action against an enemy of the United States; (b) while engaged in military operations involving conflict with an opposing foreign force; or (c) while serving with friendly forces engaged in an armed conflict against an opposing force in which the United States is not a belligerent party.

b. The period of creditable military service must include the period of captivity from date of capture through date of release. While no minimum time period of captivity exists as eligibility criteria for the medal, the New Jersey Department of Military and Veterans' Affairs should determine each case on its merits.

c. The medal shall be issued only to those taken prisoner by foreign armed forces that are hostile to the United States, under circumstances which the Adjutant General, or his designee, finds to have been comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict.

d. Any person convicted by a United States military tribunal of misconduct or a criminal charge or whose discharge is less than honorable based on actions while a POW-MIA is ineligible for the medal. Any POW-MIA whose conduct was not in accord with the Code of Conduct and whose actions are documented by United States military records, is ineligible for the medal. Resolution of questionable cases shall be the responsibility of the Adjutant General or his designee.

e. No more than one medal shall be awarded. For subsequent acts justifying award of the medal, service stars shall be awarded and worn on the suspension and service ribbon of the medal. A period of captivity terminates on return to United States military control. Escapees who do not return to United States military control and are recaptured by an enemy do not begin a new period of captivity for subsequent award of the medal.

f. The medal may be awarded for a deceased person or a person absent as a prisoner of war or missing in action and, when so directed, may be presented to such representatives, as the Adjutant General considers appropriate, who submit all of the required forms and documentation on behalf of that person.

Return of remains, in and of itself, does not constitute evidence of POW-MIA status.

C.38A:15-5 Requests for, issuance of medal.

2. The Department of Military and Veterans' Affairs shall receive requests for, and issue, the medal to eligible individuals or their next-of-kin, who shall use the "New Jersey Department of Military and Veterans' Affairs application for award/program" application, attaching a copy of DD Form 214 or WD Form 53 and death certificate copy, if applicable.

C.38A:15-6 "POW-MIA Medal Fund;" use.

3. There is created in the Department of the Treasury a special, non-lapsing fund to be known as the "POW-MIA Medal Fund." There shall be deposited into the fund the amounts made available for the purposes of the fund and monetary donations that may be received from any source for the purposes of the fund and any interest earned thereon. Monies deposited in the fund shall be dedicated for the design, manufacture and distribution of the medal.

4. This act shall take effect six months from the date of enactment, but the New Jersey Department of Military and Veterans' Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved August 2, 2006.