

HOUSE BILL 358

Unofficial Copy  
E1

2000 Regular Session  
(01r1142)

**ENROLLED BILL**  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegates Petzold and Bozman**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER 591

1 AN ACT concerning

2 **Human Remains ~~and Associated Funerary Objects~~ - Removal from Burial**  
3 **Sites - Authorization and Procedures**

4 FOR the purpose of allowing the Office of the State's Attorney in the jurisdiction  
5 where certain burial sites are located to authorize the removal of human  
6 remains ~~or associated funerary objects~~ by certain persons after certain  
7 requirements are met; providing for the construction of this Act; requiring  
8 certain notice for removal of human remains under certain circumstances;  
9 requiring the notice to be published for a certain amount of time; giving certain  
10 persons a certain amount of time to respond to the notice; requiring certain  
11 persons to prove by certain means the location and boundaries of certain burial  
12 sites; providing procedures for the reinterment of certain human remains;  
13 requiring the location of certain human remains to be documented in certain  
14 places under certain circumstances; repealing ~~certain provisions~~ a certain  
15 provision relating to the removal of dead bodies without authority; making  
16 stylistic changes; altering certain penalties for certain offenses relating to  
17 removing human remains from burial sites and graveyard desecration; defining

1 certain terms; and generally relating to the removal of human remains ~~or~~  
 2 ~~associated funerary objects~~ from a burial site and graveyard desecration.

3 BY repealing

4 Article 27 - Crimes and Punishments  
 5 Section 265 and the subheading "Graveyard Desecration"  
 6 Annotated Code of Maryland  
 7 (1996 Replacement Volume and 1999 Supplement)

8 BY adding to

9 Article 27 - Crimes and Punishments  
 10 Section 265 to be under the new subheading "Removal of Human Remains from  
 11 Burial Sites"  
 12 Annotated Code of Maryland  
 13 (1996 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article 27 - Crimes and Punishments  
 16 Section 267 to be under the new subheading "Graveyard Desecration"  
 17 Annotated Code of Maryland  
 18 (1996 Replacement Volume and 1999 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 27 - Crimes and Punishments**

22 [Graveyard Desecration]

23 [265.

24 Every person, his aiders, abettors and counsellors, who shall be convicted of  
 25 removing or attempting to remove from any graveyard, burial ground or vault in the  
 26 State of Maryland any dead body which shall have been buried in such graveyard,  
 27 burial ground or vault, shall be deemed guilty of a misdemeanor, and shall be  
 28 sentenced to the penitentiary for not less than five nor more than fifteen years,  
 29 unless such person or persons shall have been authorized by the State's Attorney for  
 30 Baltimore City or for the county in which such graveyard, burial ground or vault may  
 31 be situated to remove such dead body for the purpose of ascertaining the cause of the  
 32 death of the person whose body is so removed, or for the purpose of reburial.]

33 REMOVAL OF HUMAN REMAINS FROM BURIAL SITES

34 265.

35 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 36 INDICATED.

1           (2)    (I)    "ASSOCIATED FUNERARY OBJECT" MEANS AN ITEM OF HUMAN  
2 MANUFACTURE OR USE THAT IS INTENTIONALLY PLACED WITH HUMAN REMAINS AT  
3 THE TIME OF INTERMENT IN A BURIAL SITE OR PLACED LATER AS A PART OF A  
4 DEATH RITE OR CEREMONY OF A CULTURE, RELIGION, OR GROUP.

5                    (II)   "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY  
6 GRAVESTONE, MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY  
7 ASSOCIATED WITH A BURIAL SITE.

8           (3)    (I)    "BURIAL SITE" MEANS ANY NATURAL OR PREPARED PHYSICAL  
9 LOCATION, WHETHER ORIGINALLY LOCATED BELOW, ON, OR ABOVE THE SURFACE  
10 OF THE EARTH, INTO WHICH HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS  
11 ARE DEPOSITED AS A PART OF A DEATH RITE OR CEREMONY OF ANY CULTURE,  
12 RELIGION, OR GROUP.

13                   (II)   "BURIAL SITE" INCLUDES THE HUMAN REMAINS AND  
14 ASSOCIATED FUNERARY OBJECTS THAT RESULT FROM A SHIPWRECK OR ACCIDENT  
15 AND ARE INTENTIONALLY LEFT TO REMAIN AT THE SITE.

16           (4)    "PERMANENT CEMETERY" MEANS A CEMETERY THAT IS OWNED BY:

17                    (I)    A CEMETERY COMPANY REGULATED UNDER TITLE 5 OF THE  
18 BUSINESS REGULATION ARTICLE;

19                    (II)   A NONPROFIT ORGANIZATION; OR

20                    (III)   THE STATE.

21    (B)    (1)    EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A  
22 PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE HUMAN REMAINS ~~OR~~  
23 ~~ASSOCIATED FUNERARY OBJECTS~~ FROM ANY BURIAL SITE IN THE STATE.

24           (2)    A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
25 MISDEMEANOR AND ~~SHALL BE SENTENCED TO THE PENITENTIARY FOR NOT LESS~~  
26 ~~THAN 5 OR MORE THAN 15 YEARS ON CONVICTION IS SUBJECT TO A FINE OF NOT~~  
27 ~~MORE THAN \$10,000 OR IMPRISONMENT IN THE PENITENTIARY FOR NOT MORE THAN~~  
28 ~~5 YEARS OR BOTH.~~

29    (C)    SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE  
30 STATE'S ATTORNEY OF A COUNTY OR BALTIMORE CITY MAY AUTHORIZE IN WRITING  
31 THE REMOVAL OF HUMAN REMAINS ~~OR ASSOCIATED FUNERARY OBJECTS~~ FROM ANY  
32 BURIAL SITE IN THE STATE'S ATTORNEY'S JURISDICTION:

33           (1)    FOR THE PURPOSE OF ASCERTAINING THE CAUSE OF DEATH OF THE  
34 PERSON WHOSE REMAINS ARE TO BE REMOVED;

35           (2)    FOR THE PURPOSE OF DETERMINING WHETHER THE HUMAN  
36 REMAINS WERE INTERRED ERRONEOUSLY;

37           (3)    FOR THE PURPOSE OF REBURIAL; OR

1 (4) FOR MEDICAL OR SCIENTIFIC EXAMINATION OR STUDY, AS  
2 PERMITTED BY LAW.

3 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE  
4 STATE'S ATTORNEY FOR A COUNTY OR BALTIMORE CITY SHALL REQUIRE A PERSON  
5 REQUESTING THE AUTHORIZATION TO PERMANENTLY RELOCATE HUMAN REMAINS  
6 ~~OR ASSOCIATED FUNERARY OBJECTS~~ FROM A BURIAL SITE ~~TO ALLOW ANOTHER~~  
7 ~~PERMITTED USE IN THE STATE'S ATTORNEY'S JURISDICTION~~ TO PUBLISH A NOTICE  
8 OF THE PROPOSED RELOCATION IN A NEWSPAPER OF GENERAL CIRCULATION IN  
9 BALTIMORE CITY OR IN THE COUNTY WHERE THE BURIAL SITE IS LOCATED.

10 (2) THE NOTICE SHALL BE PUBLISHED IN THE NEWSPAPER ~~AT LEAST~~  
11 ~~ONCE A WEEK FOR AT LEAST 3 CONSECUTIVE WEEKS~~ ONE TIME.

12 (3) THE NOTICE SHALL CONTAIN:

13 (I) A STATEMENT THAT AUTHORIZATION FROM THE STATE'S  
14 ATTORNEY IS BEING REQUESTED TO REMOVE HUMAN REMAINS ~~OR ASSOCIATED~~  
15 ~~FUNERARY OBJECTS~~ FROM A BURIAL SITE;

16 (II) THE PURPOSE FOR WHICH THE AUTHORIZATION IS BEING  
17 REQUESTED;

18 (III) THE LOCATION OF THE BURIAL SITE, INCLUDING THE TAX MAP  
19 AND PARCEL NUMBER OR ~~LIBER FOLIO~~ LIBER AND FOLIO NUMBER; AND

20 (IV) ALL KNOWN PERTINENT INFORMATION CONCERNING THE  
21 BURIAL SITE, INCLUDING THE NAMES OF THE PERSONS WHOSE HUMAN REMAINS  
22 ARE INTERRED IN THE BURIAL SITE, IF KNOWN.

23 (4) FOR GOOD CAUSE THE STATE'S ATTORNEY MAY AUTHORIZE THE  
24 TEMPORARY RELOCATION OF HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS  
25 FROM A BURIAL SITE NOTWITHSTANDING THE NOTICE REQUIREMENTS OF THIS  
26 SUBSECTION. IF THE PERSON REQUESTING THE AUTHORIZATION THEREAFTER  
27 INTENDS TO PERMANENTLY RELOCATE THE REMAINS, THE PERSON SHALL  
28 PROMPTLY PUBLISH THE NOTICE AS REQUIRED UNDER THIS SUBSECTION.

29 ~~(4)~~ (5) THE PERSON REQUESTING THE AUTHORIZATION FROM THE  
30 STATE'S ATTORNEY SHALL PAY THE COST OF PUBLISHING THE NOTICE.

31 ~~(5)~~ (6) AFTER RECEIVING PROOF OF THE PUBLICATION REQUIRED  
32 UNDER PARAGRAPH (1) OF THIS SUBSECTION AND 15 DAYS HAVING EXPIRED  
33 ~~BEGINNING WITH THE DATE OF THE THIRD SUCCESSIVE~~ AFTER THE DATE OF THE  
34 PUBLICATION OF THE REQUIRED NOTICE, THE STATE'S ATTORNEY MAY AUTHORIZE  
35 THE REMOVAL OF THE HUMAN REMAINS ~~OR ASSOCIATED FUNERARY OBJECTS~~ FROM  
36 THE BURIAL SITE.

37 ~~(6)~~ (7) THIS SUBSECTION MAY NOT BE CONSTRUED TO DELAY,  
38 PROHIBIT, OR OTHERWISE LIMIT THE STATE'S ATTORNEY'S AUTHORIZATION FOR THE

1 REMOVAL OF HUMAN REMAINS ~~OR ASSOCIATED FUNERARY OBJECTS~~ FROM A  
2 BURIAL SITE.

3           (7)    (8)    FOR A KNOWN, BUT NOT NECESSARILY DOCUMENTED,  
4 UNMARKED BURIAL SITE, THE PERSON REQUESTING AUTHORIZATION FOR THE  
5 REMOVAL OF HUMAN REMAINS ~~OR ASSOCIATED FUNERARY OBJECTS~~ FROM THE  
6 BURIAL SITE HAS THE BURDEN OF PROVING BY ARCHAEOLOGICAL EXCAVATION OR  
7 OTHER ACCEPTABLE METHODS THE PRECISE LOCATION AND BOUNDARIES OF THE  
8 BURIAL SITE.

9       (E)    THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT THE NEED FOR A  
10 PERMIT REQUIRED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER  
11 § 4-215 OF THE HEALTH - GENERAL ARTICLE TO REMOVE HUMAN REMAINS FROM A  
12 BURIAL SITE.

13       (F)    (1)    ANY HUMAN REMAINS THAT ARE REMOVED FROM A BURIAL SITE IN  
14 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL BE REINTERRED:

15                   (I)    1.    IN A PERMANENT CEMETERY THAT PROVIDES PERPETUAL  
16 CARE; OR

17                               2.    IN A PLACE OTHER THAN A PERMANENT CEMETERY WITH  
18 THE AGREEMENT OF, OR AT THE REQUEST OF, A PERSON IN INTEREST AS DEFINED  
19 IN § 14-121(A)(4) OF THE REAL PROPERTY ARTICLE; AND

20                   (II)    IN THE PRESENCE OF:

21                               1.    A MORTICIAN, PROFESSIONAL CEMETERIAN, OR OTHER  
22 INDIVIDUAL QUALIFIED IN THE INTERMENT OF HUMAN REMAINS;

23                               2.    A MINISTER, PRIEST, OR OTHER RELIGIOUS LEADER; OR

24                               3.    A TRAINED ANTHROPOLOGIST OR ARCHAEOLOGIST.

25           (2)    THE LOCATION OF THE FINAL DISPOSITION AND TREATMENT OF  
26 HUMAN REMAINS THAT ARE REMOVED FROM A BURIAL SITE IN ACCORDANCE WITH  
27 THE PROVISIONS OF THIS SECTION SHALL BE ENTERED INTO THE LOCAL BURIAL  
28 SITES INVENTORY OR, IF NO LOCAL BURIAL SITES INVENTORY EXISTS, INTO  
29 WHATEVER RECORD OR INVENTORY DEEMED APPROPRIATE BY THE STATE'S  
30 ATTORNEY OR THE MARYLAND HISTORICAL TRUST.

31       (G)    THIS SECTION MAY NOT BE CONSTRUED TO INTERFERE WITH THE  
32 NORMAL OPERATION AND MAINTENANCE OF A PUBLIC OR PRIVATE CEMETERY AS  
33 LONG AS THE OPERATION AND MAINTENANCE OF THE CEMETERY ARE PERFORMED  
34 IN ACCORDANCE WITH STATE LAW.

## GRAVEYARD DESECRATION

1

2 267.

3 (A) (1) IN THIS SECTION, "ASSOCIATED FUNERARY OBJECT" MEANS AN ITEM  
4 OF HUMAN MANUFACTURE OR USE THAT IS INTENTIONALLY PLACED WITH HUMAN  
5 REMAINS AT THE TIME OF INTERMENT IN A BURIAL SITE OR PLACED LATER AS PART  
6 OF A DEATH RITE OR CEREMONY OF A CULTURE, RELIGION, OR GROUP.

7 (2) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY GRAVESTONE,  
8 MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY ASSOCIATED WITH A  
9 BURIAL SITE.

10 (a) (B) Any person who wilfully destroys, mutilates, defaces, injures, or  
11 removes ~~any tomb, monument, gravestone,~~ AN ASSOCIATED FUNERARY OBJECT or  
12 other structure placed in any cemetery, or any building, wall, fence, railing, or other  
13 work, for the use, protection, or ornamentation of any cemetery in this State is guilty  
14 of a misdemeanor and shall be fined not more than ~~\$5,000~~ \$10,000, or imprisoned for  
15 not more than ~~3~~ 5 years, or both.

16 (b) (C) Any person who wilfully destroys, cuts, breaks, or removes any tree,  
17 plant, or shrub in any cemetery in this State, or who is found guilty of indecent or  
18 disorderly conduct within said limits, shall be guilty of a misdemeanor, and shall be  
19 fined not more than \$500, or imprisoned for not more than 2 years, or both.

20 (e) (D) Nothing in this section shall be construed to prohibit the removal of  
21 the remains of any human body, or of any ~~monument, gravestone, or other marker~~  
22 ASSOCIATED FUNERARY OBJECT from an abandoned cemetery, provided that the  
23 prior consent in writing of the State's Attorney of the county or of Baltimore City shall  
24 have been secured and provided further that such remains, ~~monuments, gravestone,~~  
25 ~~or other marker is~~ OR ASSOCIATED FUNERARY OBJECTS ARE placed in an accessible  
26 place in a permanent cemetery.}

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2000.