

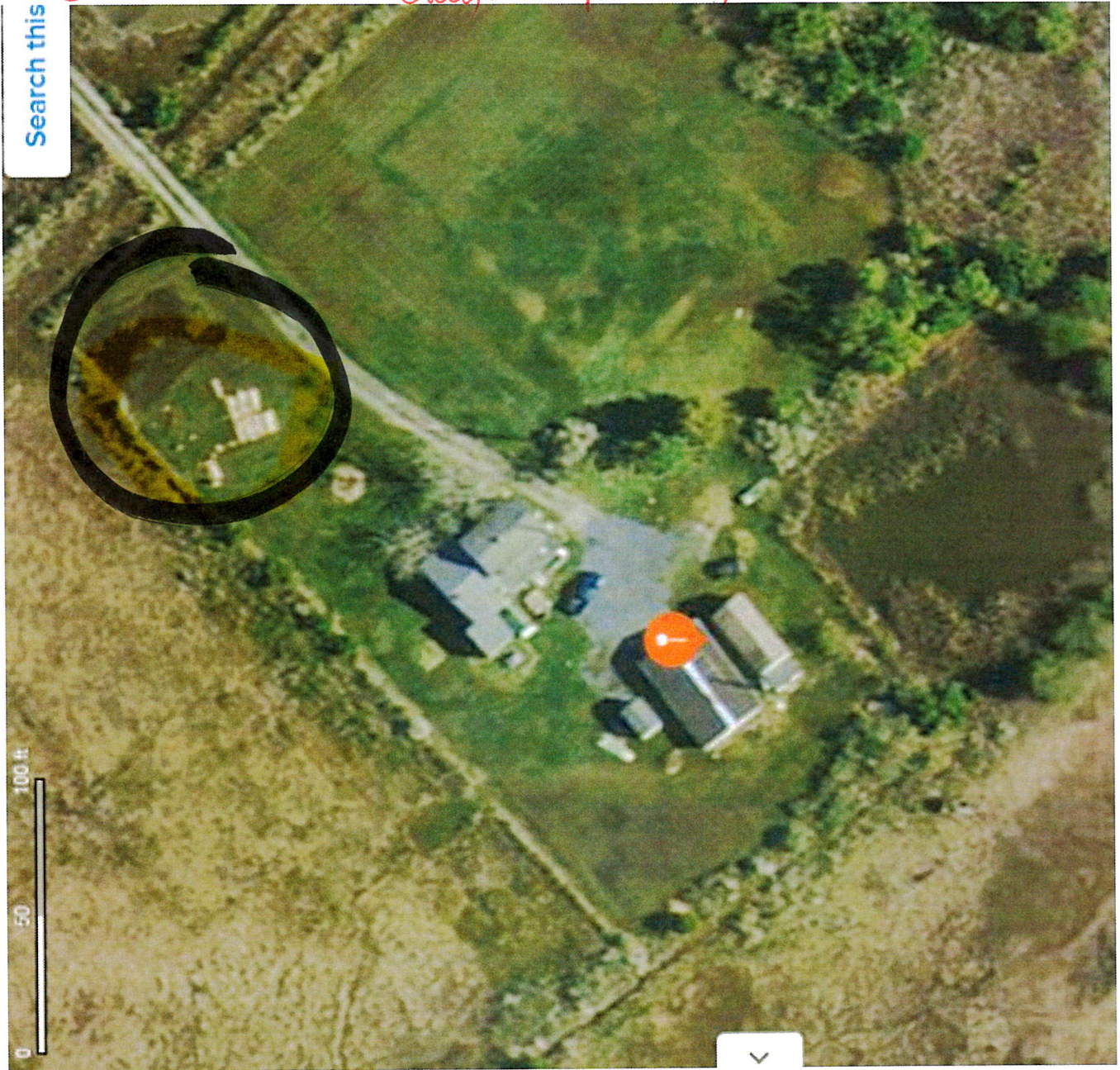
HB593 Image 1.pdf

Uploaded by: Tom Hutchinson

Position: FAV

HB0593

Google Maps Image from: 2013



H130593

2308 Wingate Bishops Head Road

11/2019

Legend

Wingate Bishops Head Rd



Google Earth

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100 ft

HB593 Image 2.pdf

Uploaded by: Tom Hutchinson

Position: FAV

HB0593

MARY F.
Wife of
E. W. [unclear]
BORN [unclear]
DIED [unclear]

DEER PARK
100% [unclear]

HB593 Image 3.pdf

Uploaded by: Tom Hutchinson

Position: FAV

OPEN VAULT

HB0543



HB593AG Letter.pdf

Uploaded by: Tom Hutchinson

Position: FAV

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ASSISTANT ATTORNEY GENERAL

June 28, 2023

The Honorable Thomas S. Hutchinson
Maryland House of Delegates
308 Lowe House Office Building
Annapolis, Maryland 21401
Via email

Dear Delegate Hutchinson:

You have asked whether a violation of § 10-404 of the Criminal Law Article (“CR”), involving the alleged destruction of gravestones and burial vault covers, is a misdemeanor offense that is subject to a one-year statute of limitations, or whether it constitutes a misdemeanor subject to imprisonment in the penitentiary, which carries no limitation period for commencing a prosecution. As a violation under CR § 10-404 is a misdemeanor that is subject to imprisonment, but which is not expressly subject to imprisonment in the “penitentiary” or otherwise expressly subject to the statute of limitations exception in § 5-106(b) of the Courts and Judicial Proceedings Article (“CJP”), such a violation is subject to the one-year statute of limitations in prosecuting the offense under CJP § 5-106(a).

Maryland law distinguishes between misdemeanor offenses and “penitentiary misdemeanor” offenses for the purpose of the application of a statute of limitations for commencing a prosecution. As the Maryland Supreme Court has explained, “[a]t common law, there is no general period of limitations applicable to criminal proceedings[,]” but “many criminal offenses are subject to specific limitations periods by statute.” *Masse v. State*, 320 Md. 605, 610-11 (1990). For example, “[i]n the absence of a specific statutory limitations period for a particular offense, the State may institute a prosecution for a felony at any time.” *Id.* (quoting *Greco v. State*, 307 Md. 470, 478 (1986)). As the Supreme Court also explained:

As to misdemeanors, the General Assembly over one hundred years ago mandated: “No prosecution ... shall be commenced for ... any misdemeanor except those punished by confinement in the penitentiary, unless within one year from the time of the offen[s]e committed.” Code (1860), Art. 57, § 10. At that time, and for many years thereafter, it was common for criminal statutes to designate not only

The Honorable Thomas S. Hutchinson

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the length of the incarceration for a criminal conviction but also the place where the defendant would serve the sentence. Trial judges would sentence convicted defendants to the particular institutions in accordance with the statutory authorization. Presumably, what the Legislature considered to be the most serious misdemeanors were made punishable by confinement in the state penitentiary. Sentences for misdemeanors apparently deemed less serious were by statute to be served in the county jails or state institutions such as the house of correction.

Id.

Existing CJP § 5-106 reflects this continuing exemption from a period of limitations for those misdemeanor offenses that expressly provide within their statutes for imprisonment in the “penitentiary”¹ or that the violation is subject to the statute of limitations exemption contained in CJP § 5-106(b).² As an exception to the requirement under CJP § 5-106(a) that “a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed[.]” § 5-106(b) provides, in pertinent part, that “if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary or that a person is subject to this subsection[.]” the State “may institute a prosecution for the misdemeanor at any time[.]”

In the case of a violation of CR § 10-404(a) for willfully destroying, damaging, defacing, or removing an associated funerary object, including a gravestone or tomb, or other structure placed in a cemetery, the offense is a misdemeanor subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both. CR § 10-404(d). There is no reference within the statute for that offense to imprisonment in the “penitentiary” or that a violation of that offense is subject to CJP § 5-106(b).³ Therefore, under CJP § 5-106(a), the statute of limitations for commencing a prosecution for a violation of CR § 10-404(a) is one year following the commission of the offense.

¹ Although the actual locations to which an individual convicted of a “penitentiary” misdemeanor may be sentenced by the court appear to have largely lost their historical distinctions, inasmuch as an individual sentenced to imprisonment for more than 12 months would be within the custody of the Division of Correction (as opposed to a local correctional facility for a shorter sentence), regardless of the particular facility to which the individual is sentenced or assigned, the statutory distinction between misdemeanors and penitentiary misdemeanors remains for purposes of the application of the statute of limitations in the State for such offenses. See *discussion in State v. Stowe*, 376 Md. 436, 438-53 (2003).

² CJP § 5-106(c) through (ff) also contain a number of specific misdemeanor offenses that are subject to limitations periods other than one year, but a violation of CR § 10-404 is not among that list of offenses.

³ This is in contrast to CR § 10-402(a) and (h), which prohibits the removal or attempted removal of human remains from a burial site and is a misdemeanor that is expressly “subject to § 5-106(b) of the Courts Article,” and thus is exempt from the one-year statute of limitations under CR § 5-106(a).

The Honorable Thomas S. Hutchinson
June 28, 2023
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I hope this is responsive to your request. If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy M. McCoy".

Jeremy M. McCoy
Assistant Attorney General

TSHutchinson HB593 Testimony.pdf

Uploaded by: Tom Hutchinson

Position: FAV

THOMAS S. HUTCHINSON
Legislative District 37B
Caroline, Dorchester, Talbot,
and Wicomico Counties



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Health and Government Operations
Committee

Subcommittees

Public Health and
Minority Health Disparities

Health Occupations and
Long-Term Care

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB593 Criminal Law - Destroying Funerary Objects - Statute of Limitations and Prohibitions

Judicial Proceedings Committee

Wednesday, March 27th, 2024

Why We Need This Bill

Many families in the state of Maryland bury their deceased loved ones on the property of their homes. When these homes are sold, new homeowners do not always maintain these graves or cemeteries, and sometimes they will damage the graves without the previous family's knowledge. When families return to visit these sites, they discover the losses and try to seek justice for the desecration. However, *they can only seek legal action if the desecration occurred within the previous year*. Current Maryland law notes that the statute of limitations period starts when the violation is **committed**, not when it is **discovered**, per the Assistant AG's opinion.

HB 593 will extend the statute of limitations for the removal, desecration, damage, or destruction of funerary objects from **one year to five years when discovered**. While this was intended to help family or private cemeteries and burial sites, it does provide this new benefit to public cemeteries or burial sites. Instead of only having one year to discover the damages and to prosecute, families will have more time to seek legal action for funerary object desecration that happened on their old family property, and cemetery owners will have more time to investigate cases of cemetery desecration or destruction.

Too many families have found the bodies of their loved ones removed, their gravestones damaged or destroyed, and the grounds on which they rest ruined beyond recognition. Cemetery owners are being left with costly damages and desecrations to the grounds in which people have gone to mourn for their lost loved ones. It's imperative that we hold desecrators accountable for these unholy acts and that we protect the bodies of those that rest.

I respectfully ask the Committee for a favorable vote on **HB 593**.

RBS HB 593 Testimony January 2024.pdf

Uploaded by: candy warden

Position: FWA

Candy Warden, President
Rosa Bonheur Society, Inc.
10240 Harvest Fields Drive
Woodstock, MD 22163
January 30, 2024

HB 0593 Testimony: FAVORABLE WITH AMENDMENT

Sponsors: Delegates Hutchinson, Adams, Hartman, Sample-Hughes, and Schmidt,

My name is Candy Warden. I am President of the Rosa Bonheur Society, Inc., a volunteer, nonprofit group formed to protect the Rosa Bonheur Memorial Park, a Maryland human and pet cemetery with thousands of burials. The people with loved ones resting at our cemetery span across all the counties of Maryland.

Constituents in every jurisdiction are aghast at what happened at just one cemetery. It is happening at other cemeteries all over Maryland. Just LAST MONTH, the week before Christmas, the Rosa Bonheur Memorial Park suffered catastrophic removal and desecration of human and pet remains from multiple sites. These sites are owned by deed holders who invested in perpetual care. Heavy equipment damage in numerous locations. A backhoe dug up graves! Removed and plowed under human and pet remains, damaged memorial markers, and grave goods! Where are the remains!

More must be done immediately. More must be done in addition to extending the statute of limitations as proposed in HB 0593.

Stronger penalties must be enacted to deter the increasing disregard for the respect and honor of cemeteries and cemetery remains. Those causing damage must pay for ALL the damage and consequences of abhorrent misbehavior. Damages must include all proper procedures for interment, damage to markers, damage to cemetery grounds, administrative costs incurred by the Office of Cemetery Oversight, and ongoing costs of new protections.

Remains interred in a cemetery must at all times be treated with honor, dignity, and respect. These beliefs are normative and widely held by Constituents across Maryland. Cemetery legislation is critical to protect all Maryland gravesites.

HB 593 provides for increasing the statute of limitations for prosecutions relating to destroying funerary objects and others structures in a cemetery; and generally relating to the statute of limitations for the crime of destroying funerary objects.

REQUESTED AMENDMENT – Please amend HB 0593 by an Amendment adding the following words to Section 10-404: (iii) “the damage of cemetery landscaping and grounds”.

This amendment would serve to strength and expand the scope and impact of the overall bill by providing needed words that would address damage experienced by cemeteries and deed holders throughout Maryland..

At the Rosa Bonheur Memorial Park graves were desecrated with human remains being exhumed and relocated without the permission of families and without the direction of a funeral services professional. Pet graves were also wantonly destroyed that surrounded the human graves.

The families that suffered disinterment(s) have also never been informed of the location of their loved ones’ remains by the desecrator(s). Are the human remains still extant? Have they been dumped in a mass grave somewhere? Have they been thrown away? Were the remains only partially exhumed or churned into the ground? Only the desecrator(s) know the answers to these questions.

Although families paid significant amounts of money for plots, caskets, vaults, memorial markers, and other services for human and pet burials and received deeds for their plots they have been victimized by their loved ones being violated.

Adopting the above Amendment, HB 0583 would provide legal protections for families and their diverse social, cultural, ethical, and religious beliefs and how they choose to honor their dead. With the adoption of the Amendment HB 0583 would offer broader protections and crucial reinforcement to the proposed legislation.

Sincerely,

Candy Warden

Rosa Bonheur Society, Inc. (founded May 2007)

2010 Periwinkle Award Winner, Coalition to Protect Maryland Burial Sites