

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 593
Judiciary

(Delegate Hutchinson, *et al.*)

Judicial Proceedings

**Criminal Law - Destroying Funerary Objects and Cemetery Elements - Statute
of Limitations and Prohibition**

This bill expands the prohibitions under § 10-404 (a) of the Criminal Law Article to prohibit a person from willfully destroying, damaging, defacing, or removing landscaping or part of the grounds of a cemetery. The bill correspondingly expands an existing statutory exception to the prohibitions under § 10-404(a) to allow for the removal of landscaping from a cemetery or burial site for the purpose of repair or replacement. Violators are guilty of a misdemeanor, and subject to the existing penalty of imprisonment for up to five years and/or a maximum fine of \$10,000. The bill also extends the statute of limitations to prosecute a person for violating § 10-404 (a) or (b) of the Criminal Law Article from within one year after the offense was committed to within three years after local authorities in fact knew or reasonably should have known of the alleged violation.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Under § 10-404(a) of the Criminal Law Article, a person may not willfully destroy, damage, deface, or remove (1) an associated funerary object or another structure placed in a cemetery or (2) a building, wall, fence, railing, or other work, for the use,

protection, or ornamentation of a cemetery. However, removing a funerary object or a building, wall, fence, railing, or other object from a cemetery is not prohibited if done (1) for the purpose of repair or replacement and (2) at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery.

An “associated funerary object” means an item of human manufacture or use that is intentionally placed with human remains at the time of interment in a burial site or after interment, as part of a death ceremony of a culture, religion, or group. An associated funerary object includes a gravestone, monument, tomb, or other structure in or directly associated with a burial site.

A violator is guilty of a misdemeanor punishable by imprisonment for up to five years and/or a maximum fine of \$10,000. Additionally, a violator must pay for the restoration of any damaged or defaced real or personal property in a cemetery to the owner of the property or the owner of the cemetery.

Under § 10-404(b) of the Criminal Law Article, a person is prohibited from willfully destroying, damaging, or removing a tree, plant, or shrub in a cemetery, unless engaged in normal maintenance of a cemetery or burial site. A violator is guilty of a misdemeanor punishable by imprisonment for up to two years and/or a maximum fine of \$500.

A prosecution for a violation of § 10-404 (a) or (b) of the Criminal Law Article must be instituted within one year of when the offense was committed (the general statute of limitations for a misdemeanor).

State Fiscal Effect: According to the Maryland Sentencing Guidelines Database, one person was sentenced to one count under § 10-404(a) in the State’s circuit courts during fiscal 2023. During fiscal 2023, the Division of Corrections conducted one intake and the Division of Parole and Probation opened one case related to a violation of § 10-404(a).

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore, Frederick, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2024
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