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**By: Senators Hafer and Boozer**

Introduced and read first time: February 1, 1996

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Desecration of Funerary Objects and Burial Sites**

3 FOR the purpose of prohibiting the destruction, mutilation, defacing, injuring, or removal  
4 of associated funerary objects that are located in burial sites; prohibiting a person  
5 from willfully removing or entering certain burial sites with the intention of  
6 removing an associated funerary object for sale or trade; prohibiting a person from  
7 willfully removing, destroying, or destructively altering certain plants from burial  
8 sites; specifying that this Act does not prevent the maintenance or repair of funerary  
9 objects and plants in a burial site under certain conditions; allowing the removal of  
10 associated funerary objects and plants to another location under certain conditions;  
11 establishing certain criminal and civil penalties for violations of this Act; altering  
12 certain criminal penalties; defining certain terms; and generally relating to the  
13 desecration of funerary objects and burial sites.

14 BY repealing and reenacting, with amendments,  
15 Article 27 - Crimes and Punishments  
16 Section 267  
17 Annotated Code of Maryland  
18 (1992 Replacement Volume and 1995 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**

22 267.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

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

29 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES A GRAVESTONE,  
30 MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY ASSOCIATED WITH A  
31 BURIAL SITE.

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

6 [(a)] (B) (1) Any person who wilfully destroys, mutilates, defaces, injures, or  
7 removes any ASSOCIATED FUNERARY OBJECT [tomb, monument, gravestone, or other  
8 structure placed in any cemetery, or any building, wall, fence, railing, or other work, for  
9 the use, protection, or ornamentation of any cemetery] in [this] THE State is guilty of a  
10 [misdemeanor] FELONY and shall be fined not [more] LESS than [\$2,000,] \$5,000 or  
11 imprisoned for not more than [3] 2 years, or both, IN ADDITION TO PAYING THE COST  
12 OF RESTORATION, REPLACEMENT, OR RESTITUTION.

13 (2) IN ADDITION TO BEING SUBJECT TO THE CRIMINAL PENALTIES  
14 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES A  
15 PROHIBITION AGAINST WILLFULLY DESTROYING, MUTILATING, DEFACING,  
16 INJURING, OR REMOVING ANY ASSOCIATED FUNERARY OBJECT IN THE STATE MAY  
17 BE ASSESSED A CIVIL PENALTY.

18 [(b)] (C) (1) Any person [who wilfully destroys, cuts, breaks, or removes any  
19 tree, plant, or shrub in any cemetery in this State, or] who is found guilty of indecent or  
20 disorderly conduct within [said limits,] A BURIAL SITE IN THE STATE [shall be] IS  
21 guilty of a misdemeanor, and shall be fined not more than \$500[, or imprisoned for not  
22 more than 2 years, or both].

23 (2) IN ADDITION TO BEING SUBJECT TO THE CRIMINAL PENALTIES  
24 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES A  
25 PROHIBITION AGAINST INDECENT OR DISORDERLY CONDUCT WITHIN A BURIAL  
26 SITE IN THE STATE MAY BE ASSESSED A CIVIL PENALTY.

27 (D) A PERSON WHO WILLFULLY REMOVES AN ASSOCIATED FUNERARY  
28 OBJECT FOR SALE OR TRADE OR WHO ENTERS A BURIAL SITE IN THE STATE THAT  
29 WAS KNOWN OR WAS MADE KNOWN TO THE PERSON, BASED ON PHYSICAL  
30 EVIDENCE, DOCUMENTATION, OR RELIABLE PERSONAL RECOLLECTION, TO  
31 REMOVE AN ASSOCIATED FUNERARY OBJECT FOR SALE OR TRADE MAY BE  
32 ASSESSED A CIVIL PENALTY, INCLUDING FORFEITURE OF EQUIPMENT USED OR  
33 INTENDED TO BE USED FOR THE REMOVAL.

34 (E) (1) A PERSON WHO WILLFULLY REMOVES, DESTROYS, CUTS, BREAKS,  
35 DEFACES, CHEMICALLY CONTAMINATES, OR OTHERWISE DESTRUCTIVELY ALTERS  
36 A TREE, SHRUB, OR OTHER PLANT THAT IS PLANTED FOR THE PROTECTION OR  
37 ORNAMENTATION OF A BURIAL SITE IN THE STATE IS GUILTY OF A MISDEMEANOR  
38 AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING THE COST TO  
39 REPLACE OR RESTORE THE PLANT.

40 (2) IN ADDITION TO BEING SUBJECT TO THE CRIMINAL PENALTIES  
41 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES A  
42 PROHIBITION AGAINST WILLFULLY REMOVING, DESTROYING, CUTTING, BREAKING,  
43 DEFACING, CHEMICALLY CONTAMINATING, OR OTHERWISE DESTRUCTIVELY  
44 ALTERING A TREE, SHRUB, OR OTHER PLANT THAT IS PLANTED FOR THE

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1 PROTECTION OR ORNAMENTATION OF A BURIAL SITE IN THE STATE MAY BE  
2 ASSESSED A CIVIL PENALTY.

3 (F) AN ASSOCIATED FUNERARY OBJECT OR PLANT PLACED AS A MEMORIAL  
4 TO AN INDIVIDUAL BURIED IN A BURIAL SITE MAY BE MOVED IF THE PERSON WHO  
5 REQUESTS THE MOVE OBTAINS APPROVAL FROM THE OFFICE OF THE STATE'S  
6 ATTORNEY OF THE COUNTY IN WHICH THE BURIAL SITE IS LOCATED BY PROVIDING  
7 PROOF THAT THE PERSON:

8 (1) IS RELATED BY BLOOD OR MARRIAGE TO THE DECEASED  
9 INDIVIDUAL;

10 (2) IS THE APPOINTED PERSONAL REPRESENTATIVE OF THE DECEASED  
11 INDIVIDUAL; OR

12 (3) IN ANY OTHER WAY, POSSESSES A LEGAL RIGHT TO OR INTEREST IN  
13 THE MEMORIAL.

14 (G) THIS SECTION DOES NOT PROHIBIT THE MAINTENANCE, REPAIR, OR  
15 REMOVAL OF AN ASSOCIATED FUNERARY OBJECT OR TREE, SHRUB, OR OTHER  
16 PLANT IN A BURIAL SITE IF THE MAINTENANCE, REPAIR, OR REMOVAL HAS BEEN  
17 AUTHORIZED BY THE OWNER OF THE BURIAL SITE.

18 [(c)] (H) Nothing in this section shall be construed to prohibit the removal of the  
19 remains of any human body, or of any monument, gravestone, or other marker from an  
20 abandoned cemetery, provided that the prior consent in writing of the State's Attorney of  
21 the county or of Baltimore City shall have been secured and provided further that such  
22 remains, monuments, gravestone, or other marker is placed in an accessible place in a  
23 permanent cemetery.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 1996.