
By: Senators Hafer and Boozer, Boozer, and Bromwell

Introduced and read first time: February 1, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 1996

CHAPTER ____

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 making it a felony to willfully destroy, mutilate, deface, injure, or remove~~
5 associated funerary objects that are located in burial sites; prohibiting a person from
6 willfully removing or entering certain burial sites with the intention of removing an
7 associated funerary object for sale or trade; prohibiting a person from willfully
8 removing, destroying, or destructively altering certain plants from burial sites;
9 specifying that this Act does not ~~prevent~~ prohibit the maintenance or repair of
10 funerary objects and plants in a burial site under certain conditions; allowing ~~the~~
11 ~~removal of~~ associated funerary objects and plants to ~~another location~~ be moved
12 under certain conditions; establishing certain criminal ~~and civil~~ penalties for
13 violations of this Act; altering certain criminal penalties; exempting certain
14 cemeteries from certain provisions of this Act; authorizing a court to issue an order
15 of restitution if property of the victim was damaged or destroyed; providing that the
16 District Court has concurrent jurisdiction with the circuit court in a criminal case
17 which is a certain felony; defining certain terms; altering a certain definition; and
18 generally relating to the desecration of funerary objects and burialsites.

19 BY repealing and reenacting, without amendments,

20 Article 27 - Crimes and Punishments

21 Section 640(a)(1)

22 Annotated Code of Maryland

23 (1992 Replacement Volume and 1995 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article 27 - Crimes and Punishments

26 Section 267 and 640(a)(11) and (b)(1)(i)

2

1 Annotated Code of Maryland
2 (1992 Replacement Volume and 1995 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Courts and Judicial Proceedings
5 Section 4-301(b) and 4-302(a) and (d)
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1995 Supplement)

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

10 **Article 27 - Crimes and Punishments**

11 267.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

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

18 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES A GRAVESTONE,
19 MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY ASSOCIATED WITH A
20 BURIAL SITE.

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

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

29 [(a)] (B) (H) Any person who wilfully destroys, mutilates, defaces, injures, or
30 removes any ASSOCIATED FUNERARY OBJECT [tomb, monument, gravestone, or other
31 structure placed in any cemetery, or any building, wall, fence, railing, or other work, for
32 the use, protection, or ornamentation of any cemetery] in [this] THE State is guilty of a
33 [misdemeanor] FELONY and shall be fined not {more}LESS than [\$2,000,] \$5,000 or
34 imprisoned for not more than {3}2 years, or both, ~~IN ADDITION TO PAYING THE COST~~
35 ~~OF RESTORATION, REPLACEMENT, OR RESTITUTION.~~

36 ~~(2) IN ADDITION TO BEING SUBJECT TO THE CRIMINAL PENALTIES~~
37 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES A~~
38 ~~PROHIBITION AGAINST WILLFULLY DESTROYING, MUTILATING, DEFACING,~~
39 ~~INJURING, OR REMOVING ANY ASSOCIATED FUNERARY OBJECT IN THE STATE MAY~~
40 ~~BE ASSESSED A CIVIL PENALTY.~~

3

1 [(b)] (C) ~~(4)~~ Any person [who wilfully destroys, cuts, breaks, or removes any
2 tree, plant, or shrub in any cemetery in this State, or] who is found guilty of indecent or
3 disorderly conduct within [said limits,] A BURIAL SITE IN THE STATE [shall be] IS
4 guilty of a misdemeanor, and shall be fined not more than \$500~~}, or imprisoned for not~~
5 more than 2 years, or both~~}.].~~

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

10 (D) A PERSON WHO WILLFULLY REMOVES AN ASSOCIATED FUNERARY
11 OBJECT FROM A BURIAL SITE FOR SALE OR TRADE OR WHO ENTERS A BURIAL SITE
12 IN THE STATE THAT WAS KNOWN OR WAS MADE KNOWN TO THE PERSON, BASED ON
13 PHYSICAL EVIDENCE, DOCUMENTATION, OR RELIABLE PERSONAL RECOLLECTION,
14 TO REMOVE AN ASSOCIATED FUNERARY OBJECT FOR SALE OR TRADE ~~MAY BE~~
15 ~~ASSESSED A CIVIL PENALTY, INCLUDING FORFEITURE OF EQUIPMENT USED OR~~
16 ~~INTENDED TO BE USED FOR THE REMOVAL~~ IS GUILTY OF A MISDEMEANOR AND ON
17 CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT
18 FOR NOT MORE THAN 1 YEAR OR BOTH.

19 (E) ~~(4)~~ A PERSON WHO WILLFULLY REMOVES, DESTROYS, CUTS, BREAKS,
20 DEFACTS, CHEMICALLY CONTAMINATES, OR OTHERWISE DESTRUCTIVELY ALTERS
21 A TREE, SHRUB, OR OTHER PLANT THAT IS PLANTED FOR THE PROTECTION OR
22 ORNAMENTATION OF A BURIAL SITE IN THE STATE IS GUILTY OF A MISDEMEANOR
23 AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING THE COST TO
24 REPLACE OR RESTORE THE PLANT.

25 ~~(2) IN ADDITION TO BEING SUBJECT TO THE CRIMINAL PENALTIES~~
26 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES A~~
27 ~~PROHIBITION AGAINST WILLFULLY REMOVING, DESTROYING, CUTTING, BREAKING,~~
28 ~~DEFACTING, CHEMICALLY CONTAMINATING, OR OTHERWISE DESTRUCTIVELY~~
29 ~~ALTERING A TREE, SHRUB, OR OTHER PLANT THAT IS PLANTED FOR THE~~
30 ~~PROTECTION OR ORNAMENTATION OF A BURIAL SITE IN THE STATE MAY BE~~
31 ~~ASSESSED A CIVIL PENALTY.~~

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

37 (1) IS RELATED BY BLOOD OR MARRIAGE TO THE DECEASED
38 INDIVIDUAL;

39 (2) IS THE APPOINTED PERSONAL REPRESENTATIVE OF THE DECEASED
40 INDIVIDUAL; OR

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

4

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

5 (H) SUBSECTIONS (D), (E), AND (F) OF THIS SECTION DO NOT APPLY TO:

6 (1) A CEMETERY CORPORATION FORMED UNDER THE LAWS OF THIS
7 STATE; OR

8 (2) AN ESTABLISHED CEMETERY, WHETHER INCORPORATED OR
9 UNINCORPORATED, THAT IS OWNED AND OPERATED BY A COUNTY, MUNICIPAL
10 CORPORATION, CHURCH, SYNAGOGUE, OR RELIGIOUS ORGANIZATION.

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

17 640.

18 (a) (1) In this subtitle, the following words have the meanings indicated, unless
19 the context of their use indicates otherwise.

20 (11) (I) "Victim":

21 (i) Means] MEANS a person who suffers personal injury, death, or
22 property DAMAGE OR loss as a direct result of crime; and].

23 (ii) [Includes.] "VICTIM" INCLUDES:

24 1. [in] IN the event of the death of a victim, the victim's estate;
25 OR

26 2. IF THE DEFENDANT IS CONVICTED UNDER § 267 OF THIS
27 ARTICLE:

28 A. THE OWNER OF THE BURIAL SITE; AND

29 B. AN INDIVIDUAL RELATED BY BLOOD OR MARRIAGE TO
30 THE INDIVIDUAL BURIED IN THE BURIAL SITE.

31 (b) (1) On conviction of a crime, acceptance of a plea of nolo contendere, or
32 imposition of probation before judgment under § 641 of this article, the court may issue
33 an order of restitution directing the defendant to make restitution in addition to any
34 other penalty for the commission of the crime, if:

35 (i) Property of the victim was stolen, DAMAGED, DESTROYED,
36 converted, unlawfully obtained, or its value substantially decreased as a direct result of
37 the crime;

5

1 **Article - Courts and Judicial Proceedings**

2 4-301.

3 (b) Except as provided in § 4-302, the District Court also has exclusive original
4 jurisdiction in a criminal case in which a person at least 18 years old or a corporation is
5 charged with:

6 (1) Commission of a common-law or statutory misdemeanor regardless of
7 the amount of money or value of the property involved;

8 (2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a
9 felony or a misdemeanor;

10 (3) Violation of a county, municipal, or other ordinance, if the violation is
11 not a felony;

12 (4) Criminal violation of a State, county, or municipal rule or regulation, if
13 the violation is not a felony;

14 (5) Doing or omitting to do any act made punishable by a fine,
15 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
16 regulation defining the violation if the violation is not a felony;

17 (6) Violation of Article 27, § 141 of this Code, whether a felony or a
18 misdemeanor;

19 (7) Violation of Article 27, § 145 of this Code, whether a felony or
20 misdemeanor; [or]

21 (8) Violation of Article 27, § 44 of the Code[.];

22 (9) Violation of Article 48A, § 233 of the Code, whether a felony or a
23 misdemeanor; [or]

24 (10) Violation of § 9-1106 of the Labor and Employment Article;

25 (11) VIOLATION OF ARTICLE 27, § 267 OF THE CODE, WHETHER A FELONY
26 OR A MISDEMEANOR.

27 4-302.

28 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), [and] (10), AND (11) of
29 this subtitle, the District Court does not have jurisdiction to try a criminal case charging
30 the commission of a felony.

31 (d) The jurisdiction of the District Court is concurrent with that of the circuit
32 court in a criminal case:

33 (1) In which the penalty may be confinement for three years or more or a
34 fine of \$2,500 or more; or

35 (2) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9), [and]
36 (10), AND (11) of this subtitle.

6

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