

SENATE BILL 452

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1999 Regular Session
9r1884
CF 9r0923

By: **Senators McCabe and Hafer**
Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Graveyard Desecration - Discovered Human Remains and Disturbed Burial**
3 **Sites**

4 FOR the purpose of requiring an individual who discovers human remains or a
5 disturbed burial site to report the discovery to certain persons within a certain
6 period of time; requiring certain persons who are notified of a discovery of
7 human remains or a disturbed burial site to take certain actions under certain
8 circumstances; authorizing the establishment of local burial sites advisory
9 boards; providing certain penalties for willful failure to report the discovery of
10 human remains or a disturbed burial site and to comply with certain specified
11 procedures; providing for the construction of this Act; defining certain terms;
12 and generally relating to the disposition and treatment of encountered or
13 discovered human remains or disturbed burial sites.

14 BY renumbering
15 Article 27 - Crimes and Punishments
16 Section 267
17 to be Section 266
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

20 BY adding to
21 Article 27 - Crimes and Punishments
22 Section 267 to be under the new subheading "Disposition and Treatment of
23 Discovered Human Remains and Disturbed Burial Sites"
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 1998 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That Section(s) 267 of Article 27 - Crimes and Punishments of the
28 Annotated Code of Maryland be renumbered to be Section(s) 266.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

1

Article 27 - Crimes and Punishments

2

**DISPOSITION AND TREATMENT OF DISCOVERED HUMAN REMAINS AND DISTURBED
BURIAL SITES**

3

4 267.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

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

11 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY
12 GRAVESTONE, MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY
13 ASSOCIATED WITH A BURIAL SITE.

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

19 (II) "BURIAL SITE" INCLUDES THE HUMAN REMAINS AND
20 ASSOCIATED FUNERARY OBJECTS THAT RESULT FROM A SHIPWRECK OR OTHER
21 ACCIDENT AND ARE INTENTIONALLY LEFT TO REMAIN AT THE SITE OF THE
22 SHIPWRECK OR ACCIDENT.

23 (4) "DISTURBED BURIAL SITE" INCLUDES A BURIAL SITE THAT HAS
24 BEEN:

25 (I) UNINTENTIONALLY DISTURBED DURING THE PROCESS OF
26 DEVELOPMENT OR OTHER LAWFUL EXCAVATION;

27 (II) DISTURBED BY NATURAL CAUSES SUCH AS FLOOD OR
28 EARTHQUAKE OR ACTIONS OF WILD ANIMALS; AND

29 (III) DISTURBED WILLFULLY IN VIOLATION OF § 265 OR § 266 OF THIS
30 ARTICLE.

31 (B) ANY PERSON WHO DISCOVERS IN OR ON THE GROUND HUMAN REMAINS
32 OR A DISTURBED BURIAL SITE SHALL:

33 (1) IMMEDIATELY CEASE ANY ACTIVITY IN THE IMMEDIATE AREA AND
34 CREATE A 20-FOOT BUFFER ZONE FROM ANY DISCOVERY TO PREVENT FURTHER
35 DISTURBANCE TO THE HUMAN REMAINS OR THE BURIAL SITE; AND

1 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, NOTIFY A LAW
2 ENFORCEMENT OFFICER IN THE COUNTY WHERE THE DISCOVERY WAS MADE OF
3 THE PRESENCE AND EXACT LOCATION OF THE DISCOVERY WITHIN 24 HOURS OF THE
4 DISCOVERY.

5 (C) THE LAW ENFORCEMENT OFFICER SHALL NOTIFY THE MARYLAND
6 HISTORICAL TRUST ABOUT THE DISCOVERY OF HUMAN REMAINS IF:

7 (1) THE DISCOVERY WAS MADE DURING AN INVESTIGATION DIRECTED
8 BY A PROFESSIONAL ARCHAEOLOGIST IN ACCORDANCE WITH FEDERAL STANDARDS
9 PROVIDED IN 36 CFR PART 61, APPENDIX A; OR

10 (2) THE HUMAN REMAINS OR THE DISTURBED BURIAL SITE IS
11 DISCOVERED ON STATE-OWNED OR STATE-CONTROLLED LAND.

12 (D) THE LAW ENFORCEMENT OFFICER IN THE COUNTY WHERE THE
13 DISCOVERY WAS MADE SHALL NOTIFY THE STATE'S ATTORNEY FOR THE COUNTY
14 WHERE THE HUMAN REMAINS OR THE DISTURBED BURIAL SITE IS LOCATED AND
15 OTHER APPROPRIATE COUNTY AUTHORITIES OF THE DISCOVERY.

16 (E) APPROPRIATE COUNTY AUTHORITIES IN COOPERATION WITH THE
17 MARYLAND HISTORICAL TRUST SHALL PROMPTLY:

18 (1) NOTIFY THE OWNER OF THE PROPERTY WHERE THE HUMAN
19 REMAINS OR DISTURBED BURIAL SITE IS LOCATED OF THE DISCOVERY AND THE
20 APPLICABLE PROVISIONS OF THIS SECTION;

21 (2) INSPECT, OR HAVE INSPECTED BY AN AUTHORIZED AGENT, THE
22 HUMAN REMAINS OR THE DISTURBED BURIAL SITE TO DETERMINE, TO THE EXTENT
23 POSSIBLE FROM READILY AVAILABLE INFORMATION, THE AGE AND ANY OTHER
24 IDENTIFYING INFORMATION OF THE REMAINS OR BURIAL SITE;

25 (3) ASSIST IN PREVENTING OR MITIGATING ANY FURTHER DAMAGE TO
26 OR DISTURBANCE OF THE HUMAN REMAINS OR THE BURIAL SITE, INCLUDING
27 APPROPRIATION AND CARE OF THE HUMAN REMAINS UNTIL FINAL DISPOSITION IS
28 DETERMINED AS PROVIDED BY LAW;

29 (4) ENTER THE LOCATION OF THE BURIAL SITE INTO THE LOCAL BURIAL
30 SITES INVENTORY, IF AVAILABLE, OR INTO WHATEVER INVENTORY OR LISTING THE
31 MARYLAND HISTORICAL TRUST DETERMINES IS APPROPRIATE; AND

32 (5) REPORT THE LOCATION OF THE BURIAL SITE TO THE LOCAL
33 SUPERVISOR OF ASSESSMENTS AS PROVIDED IN § 14-121(F) OF THE REAL PROPERTY
34 ARTICLE.

35 (F) THE PROCEDURES OUTLINED IN THIS SECTION SHALL BE COMPLETED
36 WITHIN 10 DAYS FROM THE DATE OF THE DISCOVERY.

37 (G) THE FINAL DISPOSITION AND TREATMENT OF THE DISCOVERED HUMAN
38 REMAINS OR DISTURBED BURIAL SITE SHALL BE IN ACCORDANCE WITH STATE LAW.

1 (H) A PERSON WHO WILLFULLY VIOLATES ANY PROVISION OF THIS
2 SUBHEADING IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
3 FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

4 (I) A COUNTY OR BALTIMORE CITY MAY ESTABLISH A LOCAL BURIAL SITES
5 ADVISORY BOARD TO MAINTAIN A CURRENT INVENTORY OF BURIAL SITES WITHIN
6 THEIR JURISDICTION AND TO SERVE AS A SOURCE OF INFORMATION AND
7 ASSISTANCE REGARDING BURIAL SITES AND THE DISPOSITION OF HUMAN REMAINS
8 AND ASSOCIATED FUNERARY OBJECTS.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is not intended to
10 limit the authority of the legislative body of a county, including Baltimore City, or a
11 municipal corporation to provide or encourage the protection of burial sites in
12 accordance with State law.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1999.