
By: **Delegates Petzold and Bozman**

Introduced and read first time: February 2, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Human Remains - Removal from Burial Sites - Authorization and**
3 **Procedures**

4 FOR the purpose of allowing the Office of the State's Attorney in the jurisdiction
5 where certain burial sites are located to authorize the removal of human
6 remains by certain persons after certain requirements are met; providing for the
7 construction of this Act; requiring certain notice for removal of human remains
8 under certain circumstances; requiring the notice to be published for a certain
9 amount of time; giving certain persons a certain amount of time to respond to
10 the notice; requiring certain persons to prove by certain means the location and
11 boundaries of certain burial sites; providing procedures for the reinterment of
12 certain human remains; requiring the location of certain human remains to be
13 documented in certain places under certain circumstances; repealing certain
14 provisions relating to the removal of dead bodies without authority; defining
15 certain terms; and generally relating to the removal of human remains from a
16 burial site.

17 BY repealing
18 Article 27 - Crimes and Punishments
19 Section 265 and the subheading "Graveyard Desecration"
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1999 Supplement)

22 BY adding to
23 Article 27 - Crimes and Punishments
24 Section 265 to be under the new subheading "Removal of Human Remains from
25 Burial Sites"
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1999 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article 27 - Crimes and Punishments
30 Section 267 to be under the new subheading "Graveyard Desecration"
31 Annotated Code of Maryland

1 (1996 Replacement Volume and 1999 Supplement)

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

4 **Article 27 - Crimes and Punishments**

5 [Graveyard Desecration]

6 [265.

7 Every person, his aiders, abettors and counsellors, who shall be convicted of
8 removing or attempting to remove from any graveyard, burial ground or vault in the
9 State of Maryland any dead body which shall have been buried in such graveyard,
10 burial ground or vault, shall be deemed guilty of a misdemeanor, and shall be
11 sentenced to the penitentiary for not less than five nor more than fifteen years,
12 unless such person or persons shall have been authorized by the State's Attorney for
13 Baltimore City or for the county in which such graveyard, burial ground or vault may
14 be situated to remove such dead body for the purpose of ascertaining the cause of the
15 death of the person whose body is so removed, or for the purpose of reburial.]

16 REMOVAL OF HUMAN REMAINS FROM BURIAL SITES

17 265.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

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

24 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY
25 GRAVESTONE, MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY
26 ASSOCIATED WITH A BURIAL SITE.

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

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

35 (4) "PERMANENT CEMETERY" MEANS A CEMETERY THAT IS OWNED BY:

1 (I) A CEMETERY COMPANY REGULATED UNDER TITLE 5 OF THE
2 BUSINESS REGULATION ARTICLE;

3 (II) A NONPROFIT ORGANIZATION; OR

4 (III) THE STATE.

5 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
6 PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE HUMAN REMAINS FROM ANY
7 BURIAL SITE IN THE STATE.

8 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
9 MISDEMEANOR AND SHALL BE SENTENCED TO THE PENITENTIARY FOR NOT LESS
10 THAN 5 OR MORE THAN 15 YEARS.

11 (C) SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE
12 STATE'S ATTORNEY OF A COUNTY OR BALTIMORE CITY MAY AUTHORIZE IN WRITING
13 THE REMOVAL OF HUMAN REMAINS FROM ANY BURIAL SITE IN THE STATE'S
14 ATTORNEY'S JURISDICTION:

15 (1) FOR THE PURPOSE OF ASCERTAINING THE CAUSE OF DEATH OF THE
16 PERSON WHOSE REMAINS ARE TO BE REMOVED;

17 (2) FOR THE PURPOSE OF DETERMINING WHETHER THE HUMAN
18 REMAINS WERE INTERRED ERRONEOUSLY;

19 (3) FOR THE PURPOSE OF REBURIAL; OR

20 (4) FOR MEDICAL OR SCIENTIFIC EXAMINATION OR STUDY, AS
21 PERMITTED BY LAW.

22 (D) (1) THE STATE'S ATTORNEY FOR A COUNTY OR BALTIMORE CITY SHALL
23 REQUIRE A PERSON REQUESTING THE AUTHORIZATION TO RELOCATE HUMAN
24 REMAINS FROM A BURIAL SITE TO ALLOW ANOTHER PERMITTED USE IN THE STATE'S
25 ATTORNEY'S JURISDICTION TO PUBLISH A NOTICE OF THE PROPOSED RELOCATION
26 IN A NEWSPAPER OF GENERAL CIRCULATION IN BALTIMORE CITY OR IN THE COUNTY
27 WHERE THE BURIAL SITE IS LOCATED.

28 (2) THE NOTICE SHALL BE PUBLISHED IN THE NEWSPAPER AT LEAST
29 ONCE A WEEK FOR AT LEAST 3 CONSECUTIVE WEEKS.

30 (3) THE NOTICE SHALL CONTAIN:

31 (I) A STATEMENT THAT AUTHORIZATION FROM THE STATE'S
32 ATTORNEY IS BEING REQUESTED TO REMOVE HUMAN REMAINS FROM A BURIAL
33 SITE;

34 (II) THE PURPOSE FOR WHICH THE AUTHORIZATION IS BEING
35 REQUESTED;

1 (III) THE LOCATION OF THE BURIAL SITE, INCLUDING THE TAX MAP
2 AND PARCEL NUMBER OR LIBER-FOLIO NUMBER; AND

3 (IV) ALL KNOWN PERTINENT INFORMATION CONCERNING THE
4 BURIAL SITE, INCLUDING THE NAMES OF THE PERSONS WHOSE HUMAN REMAINS
5 ARE INTERRED IN THE BURIAL SITE, IF KNOWN.

6 (4) THE PERSON REQUESTING THE AUTHORIZATION FROM THE STATE'S
7 ATTORNEY SHALL PAY THE COST OF PUBLISHING THE NOTICE.

8 (5) AFTER RECEIVING PROOF OF THE PUBLICATION REQUIRED UNDER
9 PARAGRAPH (1) OF THIS SUBSECTION AND 15 DAYS HAVING EXPIRED BEGINNING
10 WITH THE DATE OF THE THIRD SUCCESSIVE PUBLICATION OF THE REQUIRED
11 NOTICE, THE STATE'S ATTORNEY MAY AUTHORIZE THE REMOVAL OF THE HUMAN
12 REMAINS FROM THE BURIAL SITE.

13 (6) THIS SUBSECTION MAY NOT BE CONSTRUED TO DELAY, PROHIBIT,
14 OR OTHERWISE LIMIT THE STATE'S ATTORNEY'S AUTHORIZATION FOR THE REMOVAL
15 OF HUMAN REMAINS FROM A BURIAL SITE.

16 (7) FOR A KNOWN, BUT NOT NECESSARILY DOCUMENTED, UNMARKED
17 BURIAL SITE, THE PERSON REQUESTING AUTHORIZATION FOR THE REMOVAL OF
18 HUMAN REMAINS FROM THE BURIAL SITE HAS THE BURDEN OF PROVING BY
19 ARCHAEOLOGICAL EXCAVATION OR OTHER ACCEPTABLE METHODS THE PRECISE
20 LOCATION AND BOUNDARIES OF THE BURIAL SITE.

21 (E) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT THE NEED FOR A
22 PERMIT REQUIRED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER
23 § 4-215 OF THE HEALTH - GENERAL ARTICLE TO REMOVE HUMAN REMAINS FROM A
24 BURIAL SITE.

25 (F) (1) ANY HUMAN REMAINS THAT ARE REMOVED FROM A BURIAL SITE IN
26 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION SHALL BE REINTERRED:

27 (I) 1. IN A PERMANENT CEMETERY THAT PROVIDES PERPETUAL
28 CARE; OR

29 2. IN A PLACE OTHER THAN A PERMANENT CEMETERY WITH
30 THE AGREEMENT OF, OR AT THE REQUEST OF, A PERSON IN INTEREST AS DEFINED
31 IN § 14-121(A)(4) OF THE REAL PROPERTY ARTICLE; AND

32 (II) IN THE PRESENCE OF:

33 1. A MORTICIAN, PROFESSIONAL CEMETERIAN, OR OTHER
34 INDIVIDUAL QUALIFIED IN THE INTERMENT OF HUMAN REMAINS;

35 2. A MINISTER, PRIEST, OR OTHER RELIGIOUS LEADER; OR

36 3. A TRAINED ANTHROPOLOGIST OR ARCHAEOLOGIST.

