
By: **Delegates Petzold and Bozman**
Introduced and read first time: February 2, 2000
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 29, 2000

CHAPTER _____

1 AN ACT concerning

2 **Human Remains and Associated Funerary Objects - Removal from Burial**
3 **Sites - Authorization and 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 or associated funerary objects by certain persons after certain
7 requirements are met; providing for the construction of this Act; requiring
8 certain notice for removal of human remains under certain circumstances;
9 requiring the notice to be published for a certain amount of time; giving certain
10 persons a certain amount of time to respond to the notice; requiring certain
11 persons to prove by certain means the location and boundaries of certain burial
12 sites; providing procedures for the reinterment of certain human remains;
13 requiring the location of certain human remains to be documented in certain
14 places under certain circumstances; ~~repealing certain provisions a certain~~
15 provision relating to the removal of dead bodies without authority; making
16 stylistic changes; altering certain penalties; defining certain terms; and
17 generally relating to the removal of human remains or associated funerary
18 objects from a burial site.

19 BY repealing
20 Article 27 - Crimes and Punishments
21 Section 265 and the subheading "Graveyard Desecration"
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1999 Supplement)

24 BY adding to
25 Article 27 - Crimes and Punishments

1 Section 265 to be under the new subheading "Removal of Human Remains from
2 Burial Sites"
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 27 - Crimes and Punishments
7 Section 267 to be under the new subheading "Graveyard Desecration"
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1999 Supplement)

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

12 **Article 27 - Crimes and Punishments**

13 [Graveyard Desecration]

14 [265.

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

24 **REMOVAL OF HUMAN REMAINS FROM BURIAL SITES**

25 265.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

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

32 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY
33 GRAVESTONE, MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY
34 ASSOCIATED WITH A BURIAL SITE.

35 (3) (I) "BURIAL SITE" MEANS ANY NATURAL OR PREPARED PHYSICAL
36 LOCATION, WHETHER ORIGINALLY LOCATED BELOW, ON, OR ABOVE THE SURFACE

1 OF THE EARTH, INTO WHICH HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS
2 ARE DEPOSITED AS A PART OF A DEATH RITE OR CEREMONY OF ANY CULTURE,
3 RELIGION, OR GROUP.

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

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

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

10 (II) A NONPROFIT ORGANIZATION; OR

11 (III) THE STATE.

12 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
13 PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE HUMAN REMAINS OR
14 ASSOCIATED FUNERARY OBJECTS FROM ANY BURIAL SITE IN THE STATE.

15 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
16 MISDEMEANOR AND ~~SHALL BE SENTENCED TO THE PENITENTIARY FOR NOT LESS~~
17 ~~THAN 5 OR MORE THAN 15 YEARS~~ ON CONVICTION IS SUBJECT TO A FINE OF NOT
18 MORE THAN \$10,000 OR IMPRISONMENT IN THE PENITENTIARY FOR NOT MORE THAN
19 5 YEARS OR BOTH.

20 (C) SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE
21 STATE'S ATTORNEY OF A COUNTY OR BALTIMORE CITY MAY AUTHORIZE IN WRITING
22 THE REMOVAL OF HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS FROM ANY
23 BURIAL SITE IN THE STATE'S ATTORNEY'S JURISDICTION:

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

26 (2) FOR THE PURPOSE OF DETERMINING WHETHER THE HUMAN
27 REMAINS WERE INTERRED ERRONEOUSLY;

28 (3) FOR THE PURPOSE OF REBURIAL; OR

29 (4) FOR MEDICAL OR SCIENTIFIC EXAMINATION OR STUDY, AS
30 PERMITTED BY LAW.

31 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
32 STATE'S ATTORNEY FOR A COUNTY OR BALTIMORE CITY SHALL REQUIRE A PERSON
33 REQUESTING THE AUTHORIZATION TO PERMANENTLY RELOCATE HUMAN REMAINS
34 OR ASSOCIATED FUNERARY OBJECTS FROM A BURIAL SITE ~~TO ALLOW ANOTHER~~
35 ~~PERMITTED USE IN THE STATE'S ATTORNEY'S JURISDICTION~~ TO PUBLISH A NOTICE
36 OF THE PROPOSED RELOCATION IN A NEWSPAPER OF GENERAL CIRCULATION IN
37 BALTIMORE CITY OR IN THE COUNTY WHERE THE BURIAL SITE IS LOCATED.

1 (2) THE NOTICE SHALL BE PUBLISHED IN THE NEWSPAPER AT LEAST
2 ~~ONCE A WEEK FOR AT LEAST 3 CONSECUTIVE WEEKS~~ ONE TIME.

3 (3) THE NOTICE SHALL CONTAIN:

4 (I) A STATEMENT THAT AUTHORIZATION FROM THE STATE'S
5 ATTORNEY IS BEING REQUESTED TO REMOVE HUMAN REMAINS OR ASSOCIATED
6 FUNERARY OBJECTS FROM A BURIAL SITE;

7 (II) THE PURPOSE FOR WHICH THE AUTHORIZATION IS BEING
8 REQUESTED;

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

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

14 (4) FOR GOOD CAUSE THE STATE'S ATTORNEY MAY AUTHORIZE THE
15 TEMPORARY RELOCATION OF HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS
16 FROM A BURIAL SITE NOTWITHSTANDING THE NOTICE REQUIREMENTS OF THIS
17 SUBSECTION. IF THE PERSON REQUESTING THE AUTHORIZATION THEREAFTER
18 INTENDS TO PERMANENTLY RELOCATE THE REMAINS, THE PERSON SHALL
19 PROMPTLY PUBLISH THE NOTICE AS REQUIRED UNDER THIS SUBSECTION.

20 ~~(4)~~ (5) THE PERSON REQUESTING THE AUTHORIZATION FROM THE
21 STATE'S ATTORNEY SHALL PAY THE COST OF PUBLISHING THE NOTICE.

22 ~~(5)~~ (6) AFTER RECEIVING PROOF OF THE PUBLICATION REQUIRED
23 UNDER PARAGRAPH (1) OF THIS SUBSECTION AND 15 DAYS HAVING EXPIRED
24 ~~BEGINNING WITH THE DATE OF THE THIRD SUCCESSIVE~~ AFTER THE DATE OF THE
25 PUBLICATION OF THE REQUIRED NOTICE, THE STATE'S ATTORNEY MAY AUTHORIZE
26 THE REMOVAL OF THE HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS FROM
27 THE BURIAL SITE.

28 ~~(6)~~ (7) THIS SUBSECTION MAY NOT BE CONSTRUED TO DELAY,
29 PROHIBIT, OR OTHERWISE LIMIT THE STATE'S ATTORNEY'S AUTHORIZATION FOR THE
30 REMOVAL OF HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS FROM A
31 BURIAL SITE.

32 ~~(7)~~ (8) FOR A KNOWN, BUT NOT NECESSARILY DOCUMENTED,
33 UNMARKED BURIAL SITE, THE PERSON REQUESTING AUTHORIZATION FOR THE
34 REMOVAL OF HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS FROM THE
35 BURIAL SITE HAS THE BURDEN OF PROVING BY ARCHAEOLOGICAL EXCAVATION OR
36 OTHER ACCEPTABLE METHODS THE PRECISE LOCATION AND BOUNDARIES OF THE
37 BURIAL SITE.

38 (E) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT THE NEED FOR A
39 PERMIT REQUIRED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER

1 § 4-215 OF THE HEALTH - GENERAL ARTICLE TO REMOVE HUMAN REMAINS FROM A
2 BURIAL SITE.

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

5 (I) 1. IN A PERMANENT CEMETERY THAT PROVIDES PERPETUAL
6 CARE; OR

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

10 (II) IN THE PRESENCE OF:

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

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

14 3. A TRAINED ANTHROPOLOGIST OR ARCHAEOLOGIST.

15 (2) THE LOCATION OF THE FINAL DISPOSITION AND TREATMENT OF
16 HUMAN REMAINS THAT ARE REMOVED FROM A BURIAL SITE IN ACCORDANCE WITH
17 THE PROVISIONS OF THIS SECTION SHALL BE ENTERED INTO THE LOCAL BURIAL
18 SITES INVENTORY OR, IF NO LOCAL BURIAL SITES INVENTORY EXISTS, INTO
19 WHATEVER RECORD OR INVENTORY DEEMED APPROPRIATE BY THE STATE'S
20 ATTORNEY OR THE MARYLAND HISTORICAL TRUST.

21 (G) THIS SECTION MAY NOT BE CONSTRUED TO INTERFERE WITH THE
22 NORMAL OPERATION AND MAINTENANCE OF A PUBLIC OR PRIVATE CEMETERY AS
23 LONG AS THE OPERATION AND MAINTENANCE OF THE CEMETERY ARE PERFORMED
24 IN ACCORDANCE WITH STATE LAW.

25 GRAVEYARD DESECRATION

26 267.

27 (A) (1) IN THIS SECTION, "ASSOCIATED FUNERARY OBJECT" MEANS AN ITEM
28 OF HUMAN MANUFACTURE OR USE THAT IS INTENTIONALLY PLACED WITH HUMAN
29 REMAINS AT THE TIME OF INTERMENT IN A BURIAL SITE OR PLACED LATER AS PART
30 OF A DEATH RITE OR CEREMONY OF A CULTURE, RELIGION, OR GROUP.

31 (2) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY GRAVESTONE,
32 MONUMENT, TOMB, OR OTHER STRUCTURE IN OR DIRECTLY ASSOCIATED WITH A
33 BURIAL SITE.

34 (B) Any person who wilfully destroys, mutilates, defaces, injures, or
35 removes ~~any tomb, monument, gravestone,~~ AN ASSOCIATED FUNERARY OBJECT or
36 other structure placed in any cemetery, or any building, wall, fence, railing, or other

1 work, for the use, protection, or ornamentation of any cemetery in this State is guilty
2 of a misdemeanor and shall be fined not more than ~~\$5,000~~ \$10,000, or imprisoned for
3 not more than ~~3~~ 5 years, or both.

4 ~~(b)~~ (C) Any person who wilfully destroys, cuts, breaks, or removes any tree,
5 plant, or shrub in any cemetery in this State, or who is found guilty of indecent or
6 disorderly conduct within said limits, shall be guilty of a misdemeanor, and shall be
7 fined not more than \$500, or imprisoned for not more than 2 years, or both.

8 ~~(e)~~ (D) Nothing in this section shall be construed to prohibit the removal of
9 the remains of any human body, or of any ~~monument, gravestone, or other marker~~
10 ASSOCIATED FUNERARY OBJECT from an abandoned cemetery, provided that the
11 prior consent in writing of the State's Attorney of the county or of Baltimore City shall
12 have been secured and provided further that such remains, ~~monuments, gravestone,~~
13 ~~or other marker is~~ OR ASSOCIATED FUNERARY OBJECTS ARE placed in an accessible
14 place in a permanent cemetery.}

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2000.