

Department of Legislative Services

Maryland General Assembly

2000 Session

FISCAL NOTE

Revised

House Bill 358 (Delegates Petzold and Bozman)

Judiciary

Human Remains - Removal from Burial Sites - Authorization and Procedures

This bill expands current law relating to the State's Attorney's authority to permit the removal of human remains and to the unlawful removal of human remains from burial sites. This bill allows a State's Attorney with jurisdiction over a burial site to authorize in writing the removal of human remains from any burial site to determine whether the interment was erroneous or for medical or scientific study as allowed by law. Unless specifically permitted by law, a person may not remove or attempt to remove human remains from any burial site in the State. A violator is guilty of a misdemeanor and subject to maximum penalties of a \$10,000 fine or five years in the penitentiary, or both. This bill does not preclude the need for a Department of Health and Mental Hygiene permit to remove remains from a burial site.

Fiscal Summary

State Effect: None. The bill's requirements would not significantly affect governmental finances or operations.

Local Effect: State's Attorneys currently handle disinterment and reinterment issues; any increase in requests pursuant to this bill is expected to be negligible and could be handled with existing local government resources.

Small Business Effect: Minimal.

Bill Summary: The person requesting the permanent relocation of human remains from a burial site must publish specific information in a notice of the proposed relocation at least once in a newspaper of general circulation in Baltimore City or in the county where the burial site is located. The bill provides for the authorization of temporary relocation of human remains without notice. Reinterment must be recorded in an inventory or appropriate record and will only be permitted in a permanent, perpetual care cemetery in the presence of qualified reinterment specialists.

The bill defines an “associated funerary object” to include any gravestone, monument, or tomb directly associated with a gravesite. It also increases the maximum penalties for graveyard desecration to a \$10,000 fine and/or incarceration for five years.

Current Law: A State’s Attorney may authorize in writing the removal of human remains to ascertain the cause of death, or for reburial. A State’s Attorney is not allowed to give authorization for the removal of human remains to determine whether the interment was erroneous, or for medical or scientific study. There is no requirement for publishing a notice of the proposed relocation, reinterment, or removal of human remains. Violators are guilty of a misdemeanor and shall be sentenced to the penitentiary for not less than five or more than 15 years. Remains lawfully removed will be reinterred to an accessible place in a permanent cemetery with a monument, gravestone, or marker.

A violator who willfully destroys, mutilates, defaces, injures, or removes any tomb, monument, or gravestone, or other structure is guilty of a misdemeanor and subject to maximum penalties of a fine of \$5,000 or imprisonment for three years, or both.

Additional Information

Prior Introductions: A substantially similar bill was introduced as HB 816 in 1999, but was withdrawn after a hearing in the House Judiciary Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Housing and Community Development, Office of State’s Attorneys’ Coordinator, State’s Attorneys’ Association, Maryland Historical Trust, Department of Legislative Services

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