
By: **Delegates Petzold and Bozman**
Introduced and read first time: January 23, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Funerary Objects - Removal from Burial Sites - Authorization and**
3 **Procedures**

4 FOR the purpose of prohibiting a person from removing or attempting to remove a
5 funerary object from a burial site; establishing certain exceptions to the
6 prohibition; authorizing certain persons to change, replace, or remove for a
7 certain purpose a funerary object from a burial site without the written
8 approval of a State's Attorney; requiring a certain notice for the relocation of
9 human remains or a funerary object under certain circumstances; making
10 certain procedures for the relocation or removal of human remains from a burial
11 site applicable to the relocation or removal of a funerary object; allowing the
12 removal of human remains or a funerary object from a neglected cemetery under
13 certain conditions; defining a certain term; and generally relating to the
14 removal of funerary objects from a burial site.

15 BY repealing and reenacting, with amendments,
16 Article - Criminal Law
17 Section 10-401, 10-402, and 10-404
18 Annotated Code of Maryland
19 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
20 2002)

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

23 **Article - Criminal Law**

24 10-401.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) (1) "Burial site" means a natural or prepared physical location, whether
27 originally located below, on, or above the surface of the earth, into which human
28 remains or funerary objects are deposited as a part of a death ceremony of a culture,
29 religion, or group.

1 (2) "Burial site" includes the human remains and funerary objects that
2 result from a shipwreck or accident and are left intentionally to remain at the site.

3 (c) (1) "Funerary object" means an item of human manufacture or use that
4 is intentionally placed:

5 (i) with human remains at the time of interment in a burial site; or

6 (ii) after interment, as a part of a death ceremony of a culture,
7 religion, or group.

8 (2) "Funerary object" includes a gravestone, monument, tomb, or other
9 structure in or directly associated with a burial site.

10 (d) (1) "HUMAN REMAINS" MEANS HUMAN SKELETAL REMAINS AS A WHOLE
11 OR IN PART.

12 (2) "HUMAN REMAINS" INCLUDES CREMATED REMAINS.

13 (E) "Permanent cemetery" means a cemetery that is owned by:

14 (1) a cemetery company regulated under Title 5 of the Business
15 Regulation Article;

16 (2) a nonprofit organization; or

17 (3) the State.

18 10-402.

19 (a) Except as provided in subsection (b) of this section, a person may not
20 remove or attempt to remove human remains OR A FUNERARY OBJECT from a burial
21 site.

22 (b) (1) Subject to subsection (c) of this section, the State's Attorney for a
23 county may authorize in writing the removal of human remains OR A FUNERARY
24 OBJECT from a burial site in the State's Attorney's jurisdiction:

25 [(1)] (I) to ascertain the cause of death of the person whose remains are
26 to be removed;

27 [(2)] (II) to determine whether the human remains were interred
28 erroneously;

29 [(3)] (III) for the purpose of reburial; or

30 [(4)] (IV) for medical or scientific examination or study allowed by law.

31 (2) WITHOUT WRITTEN APPROVAL OF A STATE'S ATTORNEY, AN OWNER
32 OR HEIR OF AN OWNER OF A BURIAL SITE MAY CHANGE, REPLACE, OR REMOVE TO
33 REPAIR OR CLEAN A FUNERARY OBJECT.

1 (c) (1) Except as provided in paragraph (4) of this subsection, the State's
2 Attorney for a county shall require a person who requests authorization to relocate
3 permanently human remains OR A FUNERARY OBJECT from a burial site to publish a
4 notice of the proposed relocation in a newspaper of general circulation in the county
5 where the burial site is located.

6 (2) The notice shall be published in the newspaper [one time] AT LEAST
7 ONCE A WEEK FOR 3 CONSECUTIVE WEEKS.

8 (3) The notice shall contain:

9 (i) a statement that authorization from the State's Attorney is
10 being requested to remove human remains OR A FUNERARY OBJECT from a burial
11 site;

12 (ii) the purpose for which the authorization is being requested;

13 (iii) the location of the burial site, including the tax map and parcel
14 number or liber and folio number; and

15 (iv) all known pertinent information concerning the burial site,
16 including the names of the persons whose human remains are interred in the burial
17 site, if known.

18 (4) (i) The State's Attorney may authorize the temporary relocation of
19 human remains OR A FUNERARY OBJECT from a burial site for good cause,
20 notwithstanding the notice requirements of this subsection.

21 (ii) If the person requesting the authorization subsequently intends
22 to relocate the remains permanently, the person promptly shall publish notice as
23 required under this subsection.

24 (5) The person requesting the authorization from the State's Attorney
25 shall pay the cost of publishing the notice.

26 (6) The State's Attorney may authorize the removal of the human
27 remains from the burial site after:

28 (i) receiving proof of the publication required under paragraph (1)
29 of this subsection; and

30 (ii) 15 days after the LAST REQUIRED date of publication.

31 (7) This subsection may not be construed to delay, prohibit, or otherwise
32 limit the State's Attorney's authorization for the removal of human remains OR A
33 FUNERARY OBJECT from a burial site.

34 (8) For a known, but not necessarily documented, unmarked burial site,
35 the person requesting authorization for the removal of human remains OR A
36 FUNERARY OBJECT from the burial site has the burden of proving by archaeological

1 excavation or another acceptable method the precise location and boundaries of the
2 burial site.

3 (d) (1) Any human remains that are removed from a burial site under this
4 section shall be reinterred in:

5 (i) 1. a permanent cemetery that provides perpetual care; or

6 2. a place other than a permanent cemetery with the
7 agreement of a person in interest as defined under § 14-121(a)(4) of the Real Property
8 Article; and

9 (ii) in the presence of:

10 1. a mortician, professional cemeterian, or other individual
11 qualified in the interment of human remains;

12 2. a minister, priest, or other religious leader; or

13 3. a trained anthropologist or archaeologist.

14 (2) The location of the final disposition and treatment of human remains
15 that are removed from a burial site under this section shall be entered into the local
16 burial sites inventory or, if no local burial sites inventory exists, into a record or
17 inventory deemed appropriate by the State's Attorney or the Maryland Historical
18 Trust.

19 (e) This section may not be construed to:

20 (1) preempt the need for a permit required by the Department of Health
21 and Mental Hygiene under § 4-215 of the Health - General Article to remove human
22 remains from a burial site; or

23 (2) interfere with the normal operation and maintenance of a cemetery,
24 as long as the operation and maintenance of the cemetery are performed in
25 accordance with State law.

26 (f) A person who violates this section is guilty of a misdemeanor and on
27 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
28 \$10,000 or both.

29 (g) A person who violates this section is subject to § 5-106(b) of the Courts
30 Article.

31 10-404.

32 (a) A person may not willfully destroy, damage, deface, or remove:

33 (1) a funerary object or another structure placed in a cemetery; or

1 (2) a building, wall, fence, railing, or other work, for the use, protection,
2 or ornamentation of a cemetery.

3 (b) A person may not willfully destroy, damage, or remove a tree, plant, or
4 shrub in a cemetery.

5 (c) A person may not engage in indecent or disorderly conduct in a cemetery.

6 (d) A person who violates this section is guilty of a misdemeanor and on
7 conviction is subject to:

8 (1) for a violation of subsection (a) of this section, imprisonment not
9 exceeding 5 years or a fine not exceeding \$10,000 or both; and

10 (2) for a violation of subsection (b) or (c) of this section, imprisonment not
11 exceeding 2 years or a fine not exceeding \$500 or both.

12 (e) (1) This section does not prohibit the removal of human remains or a
13 funerary object from [an abandoned] A NEGLECTED cemetery if:

14 [(1)] (I) the removal is authorized in writing by the State's Attorney of
15 the county in which the cemetery containing the human remains or funerary object is
16 located; and

17 [(2)] (II) the human remains or funerary object are placed in an
18 accessible place in a permanent cemetery.

19 (2) **THIS SECTION DOES NOT PROHIBIT AN OWNER OF A BURIAL SITE, AN
20 HEIR OF AN OWNER, OR AN AUTHORIZED AGENT OF AN OWNER OR HEIR FROM
21 CHANGING, REPLACING, OR REMOVING FOR CLEANING OR REPAIRING A FUNERARY
22 OBJECT IN A BURIAL SITE WITHOUT THE WRITTEN APPROVAL OF A STATE'S
23 ATTORNEY.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
25 effect October 1, 2002.