

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 289

(Delegates Petzold and Bozman)

Judiciary

Funerary Objects - Removal from Burial Sites - Authorization and Procedures

This bill makes current provisions of law prohibiting the removal of human remains from a burial site also applicable to funerary objects. The bill also: (1) authorizes an owner, an heir to an owner, or an authorized agent of the owner of a burial site to change, replace, or remove to repair or clean a funerary object without written approval of a State's Attorney; (2) authorizes, with conditions, the removal of human remains and funerary objects from a neglected cemetery; (3) increases the public notice requirements of a request for authorization to remove human remains and funerary objects from a burial site from one notice to three notices published in consecutive weeks; and (4) clarifies the definition of human remains.

Fiscal Summary

State Effect: Penalties and jail terms arising from the bill's provisions are expected to be minimal and would not significantly affect State finances.

Local Effect: State's Attorneys would be required to handle disinterment and re-interment issues of funerary objects; any increases in expenditures pursuant to this bill are expected to be negligible and could be handled with current resources.

Small Business Effect: None.

Analysis

Current Law: A person may not remove or attempt to remove human remains from a burial site unless a State's Attorney has authorized in writing the removal of human

remains in the State's Attorney's jurisdiction: (1) to ascertain the cause of death; (2) to determine if the human remains were interred erroneously; (3) for the purpose of reburial; or (4) for medical or scientific examination or study.

A person who requests authorization to permanently relocate human remains is required to post notice of the proposed relocation once in a newspaper with a statement that authorization from the State's Attorney is being requested to remove human remains from a burial site, the purpose for which the authorization is being requested, the location of the burial site including the tax map and parcel number or liber and folio number, and all known pertinent information concerning the burial site including, if known, the names of the persons whose remains are interred in the burial site.

A State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause and requires that the person requesting the authorization for a permanent relocation post notice of the relocation.

For a known, but not necessarily documented, unmarked burial site, the person requesting authorization for the removal of human remains from a burial site must prove by archaeological excavation or other acceptable method the precise location and boundary of the burial site.

Removal of funerary objects, or attempts to remove funerary objects, is addressed in current law only for their removal from abandoned cemeteries with the prior written authorization of the local State's Attorney and requires that after removal the funerary object be placed in an accessible area in a permanent cemetery.

A person who violates the prohibition against removing human remains is guilty of a misdemeanor and is subject to imprisonment for a period not to exceed five years or a fine not to exceed \$10,000, or both.

A funerary object is defined in current law as an item that is intentionally placed with human remains at the time of interment in a burial site or an object intentionally placed after interment as part of a death ceremony of a culture, religion, or group.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Veterans Affairs; Department of Legislative Services

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lsc/hlb

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