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By: **Delegates Petzold, Bozman, Conway, and Rosenberg**

Introduced and read first time: January 31, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Destroying Funerary Objects - Revisions**

3 FOR the purpose of repealing the element of willfulness in certain prohibitions  
4 relating to the destruction of funerary objects; providing that a certain  
5 prohibition against the destruction of funerary objects does not prohibit certain  
6 repair or replacement activities; providing that a certain prohibition relating to  
7 the destruction of funerary objects does not prohibit certain care and  
8 maintenance activities; and generally relating to the prohibition against  
9 destruction of funerary objects.

10 BY repealing and reenacting, with amendments,

11 Article - Criminal Law

12 Section 10-404

13 Annotated Code of Maryland

14 (2002 Volume and 2004 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Criminal Law**

18 10-404.

19 (a) (1) [A] SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS  
20 SUBSECTION, A person may not [willfully] destroy, damage, deface, or remove:

21 [(1)] (I) an associated funerary object or another structure placed in a  
22 cemetery; or

23 [(2)] (II) a building, wall, fence, railing, or other work, for the use,  
24 protection, or ornamentation of a cemetery.

25 (2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION DO NOT  
26 PROHIBIT THE REMOVAL OF A FUNERARY OBJECT OR A BUILDING, WALL, FENCE,  
27 RAILING, OR OTHER OBJECT INSTALLED FOR THE USE, PROTECTION, OR  
28 ORNAMENTATION OF A CEMETERY OR BURIAL SITE, FOR THE PURPOSE OF REPAIR

1 OR REPLACEMENT, EITHER AT THE REQUEST OF OR WITH THE PERMISSION OF HEIRS  
2 OR DESCENDANTS OF THE DECEASED OR THE OWNER OR MANAGER OF THE  
3 CEMETERY OR BURIAL SITE.

4 (b) (1) [A] SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS  
5 SUBSECTION, A person may not [willfully] destroy, damage, or remove a tree, plant,  
6 or shrub in a cemetery.

7 (2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION DO NOT  
8 PROHIBIT NORMAL MAINTENANCE OF A CEMETERY OR BURIAL SITE, INCLUDING  
9 TRIMMING OF TREES AND SHRUBS, REMOVAL OF WEEDS OR NOXIOUS GROWTHS,  
10 GRASS CUTTING, OR OTHER ROUTINE CARE AND MAINTENANCE.

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

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

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

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

18 (e) This section does not prohibit the removal of human remains or a funerary  
19 object from an abandoned cemetery if:

20 (1) the removal is authorized in writing by the State's Attorney of the  
21 county in which the cemetery containing the human remains or funerary object is  
22 located; and

23 (2) the human remains or funerary object are placed in an accessible  
24 place in a permanent cemetery.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2005.