

# HOUSE BILL 353

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8lr1129

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By: **Delegates Rosenberg, Branch, Glenn, Harrison, and Oaks**

Introduced and read first time: January 25, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Restitution – Destruction of Funerary Objects and Limit on**  
3 **Judgment for Acts of Child**

4 FOR the purpose of requiring a person who violates a certain prohibition against  
5 destroying funerary objects to restore or pay the full value of certain property to  
6 a certain owner; increasing the absolute limit of a judgment of restitution for a  
7 child's acts arising out of a single incident; and generally relating to restitution.

8 BY repealing and reenacting, with amendments,  
9 Article – Criminal Law  
10 Section 10–404  
11 Annotated Code of Maryland  
12 (2002 Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Procedure  
15 Section 11–604  
16 Annotated Code of Maryland  
17 (2001 Volume and 2007 Supplement)

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

20 **Article – Criminal Law**

21 10–404.

22 (a) (1) Subject to the provisions of paragraph (2) of this subsection, a  
23 person may not willfully destroy, damage, deface, or remove:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(i) an associated funerary object or another structure placed in a cemetery; or

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

(2) The provisions of paragraph (1) of this subsection do not prohibit the removal of a funerary object or a building, wall, fence, railing, or other object installed for the use, protection, or ornamentation of a cemetery or burial site, for the purpose of repair or replacement, either at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery or burial site.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, or remove a tree, plant, or shrub in a cemetery.

(2) The provisions of paragraph (1) of this subsection do not prohibit normal maintenance of a cemetery or burial site, including trimming of trees and shrubs, removal of weeds or noxious growths, grass cutting, or other routine care and maintenance.

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

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

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

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

**(E) A PERSON WHO VIOLATES THIS SECTION SHALL RESTORE OR PAY THE FULL VALUE OF ANY DAMAGED OR DEFACED REAL OR PERSONAL PROPERTY TO THE OWNER OF THE PROPERTY OR THE OWNER OF THE CEMETERY.**

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

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

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

1                                   **Article – Criminal Procedure**

2    11-604.

3           (a)    Subject to subsection (b) of this section and notwithstanding any other  
4 law, if a child is the defendant or child respondent, the court may order the child, the  
5 child's parent, or both to pay restitution.

6           (b)    A judgment of restitution for [\$10,000] **\$15,000** issued under Part I of  
7 this subtitle is the absolute limit for each child's acts arising out of a single incident.

8           (c)    (1)   A court may not enter a judgment of restitution against a parent  
9 under Part I of this subtitle unless the parent has been afforded a reasonable  
10 opportunity to be heard and to present evidence.

11                   (2)   A hearing under this subsection may be held as part of the  
12 sentencing or disposition hearing.

13                 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2008.