

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 421

(Senator McKay)

Judicial Proceedings

Judiciary

Criminal Law - Destroying Funerary Objects and Cemetery Elements - Statute of Limitations and Prohibition

This bill expands existing prohibitions against willfully destroying, damaging, defacing, or removing specified objects, structures, or features in a cemetery under § 10-404 (a) of the Criminal Law Article. Under the bill, a person may not engage in any of these acts with respect to *any other part of the grounds of a cemetery*. The bill correspondingly expands an existing exception to allow for the removal of part of the grounds of the cemetery for the purpose of repair or replacement. Violators are guilty of a misdemeanor and subject to the existing penalty of imprisonment for up to five years and/or a maximum fine of \$10,000. The bill also extends the statute of limitations to prosecute a person for a violation of § 10-404 (a) or (b) of the Criminal Law Article relating to the destruction of funerary objects and other elements of a cemetery from within one year after the offense was committed to within three years after local authorities in fact knew or reasonably should have known of the violation.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: Under § 10-404(a) of the Criminal Law Article, a person may not willfully destroy, damage, deface, or remove (1) an associated funerary object or another structure placed in a cemetery or (2) a building, wall, fence, railing, or other work, for the use, protection, or ornamentation of a cemetery. However, removing a funerary object or a building, wall, fence, railing, or other object from a cemetery is not prohibited if done (1) for the purpose of repair or replacement and (2) at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery.

An “associated funerary object” means an item of human manufacture or use that is intentionally placed with human remains at the time of interment in a burial site or after interment, as part of a death ceremony of a culture, religion, or group. An associated funerary object includes a gravestone, monument, tomb, or other structure in or directly associated with a burial site.

A person who violates § 10-404(a) is guilty of a misdemeanor, which is punishable by imprisonment for up to five years and/or a maximum fine of \$10,000. Additionally, a violator must pay for the restoration of any damaged or defaced real or personal property in a cemetery to the owner of the property or the owner of the cemetery.

Under § 10-404(b) of the Criminal Law Article, a person is prohibited from willfully destroying, damaging, or removing a tree, plant, or shrub in a cemetery, unless engaged in normal maintenance of a cemetery or burial site. A violator is guilty of a misdemeanor, which is punishable by imprisonment for up to two years and/or a maximum fine of \$500.

A prosecution for a violation of § 10-404 (a) or (b) of the Criminal Law Article must be instituted within one year of when the offense was committed (the general statute of limitations for a misdemeanor).

State Fiscal Effect: According to the Maryland Sentencing Guidelines Database, zero individuals were sentenced under § 10-404(a) or (b) in the State’s circuit courts during fiscal 2024. During fiscal 2024, the Division of Corrections conducted zero intakes and the Division of Parole and Probation opened two supervision cases for violations of § 10-404.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 593 of 2024.

Designated Cross File: HB 616 (Delegate Hutchinson, *et al.*) - Judiciary.

Information Source(s): Anne Arundel, Baltimore, Cecil, and Frederick counties; Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2025
km/aad Third Reader - March 21, 2025
Revised - Amendment(s) - March 21, 2025

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510