



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB4946**

by Rep. Nick Sauer

#### SYNOPSIS AS INTRODUCED:

765 ILCS 835/1

from Ch. 21, par. 15

Amends the Cemetery Protection Act. Provides that any person who acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 2 (instead of a Class 3) felony. Provides that any person who acts without proper legal authority and who willfully and knowingly removes any portion of the remains of a deceased human being from a burial ground where skeletal remains are buried or from a grave, crypt, vault, mausoleum, or other repository of human remains is guilty of a Class 2 (instead of Class 4) felony.

LRB100 17852 HEP 36044 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning cemeteries.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Cemetery Protection Act is amended by  
5 changing Section 1 as follows:

6 (765 ILCS 835/1) (from Ch. 21, par. 15)

7 Sec. 1. (a) Any person who acts without proper legal  
8 authority and who willfully and knowingly destroys or damages  
9 the remains of a deceased human being or who desecrates human  
10 remains is guilty of a Class 2 ~~Class 3~~ felony.

11 (a-5) Any person who acts without proper legal authority  
12 and who willfully and knowingly removes any portion of the  
13 remains of a deceased human being from a burial ground where  
14 skeletal remains are buried or from a grave, crypt, vault,  
15 mausoleum, or other repository of human remains is guilty of a  
16 Class 2 ~~Class 4~~ felony.

17 (b) Any person who acts without proper legal authority and  
18 who willfully and knowingly:

19 (1) obliterates, vandalizes, or desecrates a burial  
20 ground where skeletal remains are buried or a grave, crypt,  
21 vault, mausoleum, or other repository of human remains;

22 (2) obliterates, vandalizes, or desecrates a park or  
23 other area clearly designated to preserve and perpetuate

1 the memory of a deceased person or group of persons;

2 (3) obliterates, vandalizes, or desecrates plants,  
3 trees, shrubs, or flowers located upon or around a  
4 repository for human remains or within a human graveyard or  
5 cemetery; or

6 (4) obliterates, vandalizes, or desecrates a fence,  
7 rail, curb, or other structure of a similar nature intended  
8 for the protection or for the ornamentation of any tomb,  
9 monument, gravestone, or other structure of like  
10 character;

11 is guilty of a Class A misdemeanor if the amount of the damage  
12 is less than \$500, a Class 4 felony if the amount of the damage  
13 is at least \$500 and less than \$10,000, a Class 3 felony if the  
14 amount of the damage is at least \$10,000 and less than  
15 \$100,000, or a Class 2 felony if the damage is \$100,000 or more  
16 and shall provide restitution to the cemetery authority or  
17 property owner for the amount of any damage caused.

18 (b-5) Any person who acts without proper legal authority  
19 and who willfully and knowingly defaces, vandalizes, injures,  
20 or removes a gravestone or other memorial, monument, or marker  
21 commemorating a deceased person or group of persons, whether  
22 located within or outside of a recognized cemetery, memorial  
23 park, or battlefield is guilty of a Class 4 felony for damaging  
24 at least one but no more than 4 gravestones, a Class 3 felony  
25 for damaging at least 5 but no more than 10 gravestones, or a  
26 Class 2 felony for damaging more than 10 gravestones and shall

1 provide restitution to the cemetery authority or property owner  
2 for the amount of any damage caused.

3 (b-7) Any person who acts without proper legal authority  
4 and who willfully and knowingly removes with the intent to  
5 resell a gravestone or other memorial, monument, or marker  
6 commemorating a deceased person or group of persons, whether  
7 located within or outside a recognized cemetery, memorial park,  
8 or battlefield, is guilty of a Class 2 felony.

9 (c) The provisions of this Section shall not apply to the  
10 removal or unavoidable breakage or injury by a cemetery  
11 authority of anything placed in or upon any portion of its  
12 cemetery in violation of any of the rules and regulations of  
13 the cemetery authority, nor to the removal of anything placed  
14 in the cemetery by or with the consent of the cemetery  
15 authority that in the judgment of the cemetery authority has  
16 become wrecked, unsightly, or dilapidated.

17 (d) If an unemancipated minor is found guilty of violating  
18 any of the provisions of subsection (b) of this Section and is  
19 unable to provide restitution to the cemetery authority or  
20 property owner, the parents or legal guardians of that minor  
21 shall provide restitution to the cemetery authority or property  
22 owner for the amount of any damage caused, up to the total  
23 amount allowed under the Parental Responsibility Law.

24 (d-5) Any person who commits any of the following:

25 (1) any unauthorized, non-related third party or  
26 person who enters any sheds, crematories, or employee

1 areas;

2 (2) any non-cemetery personnel who solicits cemetery  
3 mourners or funeral directors on the grounds or in the  
4 offices or chapels of a cemetery before, during, or after a  
5 burial;

6 (3) any person who harasses or threatens any employee  
7 of a cemetery on cemetery grounds; or

8 (4) any unauthorized person who removes, destroys, or  
9 disturbs any cemetery devices or property placed for safety  
10 of visitors and cemetery employees;

11 is guilty of a Class A misdemeanor for the first offense and of  
12 a Class 4 felony for a second or subsequent offense.

13 (e) Any person who shall hunt, shoot or discharge any gun,  
14 pistol or other missile, within the limits of any cemetery, or  
15 shall cause any shot or missile to be discharged into or over  
16 any portion thereof, or shall violate any of the rules made and  
17 established by the board of directors of such cemetery, for the  
18 protection or government thereof, is guilty of a Class C  
19 misdemeanor.

20 (f) Any person who knowingly enters or knowingly remains  
21 upon the premises of a public or private cemetery without  
22 authorization during hours that the cemetery is posted as  
23 closed to the public is guilty of a Class A misdemeanor.

24 (g) All fines when recovered, shall be paid over by the  
25 court or officer receiving the same to the cemetery authority  
26 and be applied, as far as possible in repairing the injury, if

1 any, caused by such offense. Provided, nothing contained in  
2 this Act shall deprive such cemetery authority or the owner of  
3 any interment, entombment, or inurnment right or monument from  
4 maintaining an action for the recovery of damages caused by any  
5 injury caused by a violation of the provisions of this Act, or  
6 of the rules established by the board of directors of such  
7 cemetery authority. Nothing in this Section shall be construed  
8 to prohibit the discharge of firearms loaded with blank  
9 ammunition as part of any funeral, any memorial observance or  
10 any other patriotic or military ceremony.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-863, eff. 3-1-10.)