

1 AN ACT concerning State government.

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 Sections .01 and 1 and by adding Section 17 as
6 follows:

7 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

8 Sec. .01. For the purposes of this Act, the term:

9 "Cemetery authority" means an individual or legal entity
10 that owns or controls cemetery lands or property.

11 "Community mausoleum" means a mausoleum owned and operated
12 by a cemetery authority that contains multiple entombment
13 rights sold to the public.

14 "Veteran" means a person who has served as a member of the
15 armed forces of the United States, the Illinois National
16 Guard, or a reserve component of the armed forces of the United
17 States and has been buried in a grave that is more than 100
18 years old.

19 "Veterans' organization" means an organization comprised
20 of members of which substantially all are individuals who are
21 veterans or spouses, widows, or widowers of veterans, the
22 primary purpose of which is to promote the welfare of its
23 members and to provide assistance to the general public in

1 such a way as to confer a public benefit.

2 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

3 (765 ILCS 835/1) (from Ch. 21, par. 15)

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

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

14 (b) Any person who acts without proper legal authority and
15 who willfully and knowingly:

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

20 (2) obliterates, vandalizes, or desecrates a park or
21 other area clearly designated to preserve and perpetuate
22 the memory of a deceased person or group of persons;

23 (3) obliterates, vandalizes, or desecrates plants,
24 trees, shrubs, or flowers located upon or around a
25 repository for human remains or within a human graveyard

1 or cemetery; or

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

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

14 (b-5) Any person who acts without proper legal authority
15 and who willfully and knowingly defaces, vandalizes, injures,
16 or removes a gravestone or other memorial, monument, or marker
17 commemorating a deceased person or group of persons, whether
18 located within or outside of a recognized cemetery, memorial
19 park, or battlefield is guilty of a Class 4 felony for damaging
20 at least one but no more than 4 gravestones, a Class 3 felony
21 for damaging at least 5 but no more than 10 gravestones, or a
22 Class 2 felony for damaging more than 10 gravestones and shall
23 provide restitution to the cemetery authority or property
24 owner for the amount of any damage caused.

25 (b-7) Any person who acts without proper legal authority
26 and who willfully and knowingly removes with the intent to

1 resell a gravestone or other memorial, monument, or marker
2 commemorating a deceased person or group of persons, whether
3 located within or outside a recognized cemetery, memorial
4 park, or battlefield, is guilty of a Class 2 felony.

5 (c) The provisions of this Section shall not apply to the
6 removal or unavoidable breakage or injury by a cemetery
7 authority of anything placed in or upon any portion of its
8 cemetery in violation of any of the rules and regulations of
9 the cemetery authority, nor to the removal of anything placed
10 in the cemetery by or with the consent of the cemetery
11 authority that in the judgment of the cemetery authority has
12 become wrecked, unsightly, or dilapidated, nor to the removal,
13 replacement, or installation of a gravestone or other
14 memorial, monument, or marker commemorating a veteran pursuant
15 to Section 17 of this Act.

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

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

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

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

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

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

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

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

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

23 (g) All fines when recovered, shall be paid over by the
24 court or officer receiving the same to the cemetery authority
25 and be applied, as far as possible in repairing the injury, if
26 any, caused by such offense. Provided, nothing contained in

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

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

11 (765 ILCS 835/17 new)

12 Sec. 17. Memorialization of veteran remains.

13 (a) If a veterans' organization has identified human
14 remains of a veteran that are more than 100 years old and
15 wishes to have a marker placed to designate the grave as that
16 of a veteran, a cemetery authority may allow memorialization
17 without permission of the decedent's heirs under this Section.
18 The marker may be for a previously unmarked grave or serve as a
19 replacement of or repair to an existing damaged marker. All
20 costs for memorialization under this Section, including the
21 marker, its installation, and any removal of or repair to a
22 previous marker that is damaged, shall be entirely borne by
23 the veterans' organization. In no event shall the human
24 remains be disturbed.

25 (b) The memorialization and its installation, and any

1 removal of or repair to a damaged marker, may only take place
2 with the permission of the involved cemetery authority and in
3 compliance with the rules and regulations and any collective
4 bargaining agreement of the involved cemetery.

5 (c) Before any memorialization under this Section may take
6 place, the veterans' organization must first make a good faith
7 effort to contact the decedent's next of kin, and if there is
8 no response within 120 days, the process may proceed. The
9 veterans' organization shall provide the cemetery authority
10 with a notarized statement detailing its efforts to identify
11 and contact the next of kin and the lack of response thereto,
12 which statement may be made a part of the cemetery records.

13 (d) If any heir of a decedent later objects to a
14 memorialization made under this Section, the sole remedy shall
15 be the removal of the involved marker at the expense of the
16 involved veterans' organization. If the veterans' organization
17 no longer exists or is without funds, removal shall be at the
18 expense of the heir. In no event shall there be monetary
19 damages, or any other equitable relief or penalties, against
20 the cemetery authority, cemetery, or veterans' association.