

AN ACT concerning civil law.

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

Section 1. References to Act. This Act may be referred to as the Michael Bauer Memorial Act.

Section 5. The Cemetery Oversight Act is amended by changing Sections 10-23 and 20-5 as follows:

(225 ILCS 411/10-23)

(Section scheduled to be repealed on January 1, 2027)

Sec. 10-23. Code of Professional Conduct and Ethics. Licensed cemetery authorities and their licensed cemetery managers and customer service employees, and cemetery authorities maintaining a partial exemption and their cemetery managers and customer service employees shall:

(a) refrain from committing any action that may violate Section 25-10 of this Act;

(b) be aware of applicable federal and State laws and regulations, adhere to those laws and regulations, and be able to explain them to families in an understandable manner;

(c) treat all human remains with proper care and dignity, honoring known religious, ethnic, and personal

beliefs;

(d) protect all confidential information;

(e) carry out all aspects of service in a competent and respectful manner;

(f) fulfill all written and verbal agreements and contracts;

(g) provide honest, factual, and complete information regarding all aspects of the services offered and provided;

(h) not engage in advertising that is false, misleading, or otherwise prohibited by law;

(i) not discriminate against any person because of race, creed, marital status, sex, national origin, sexual orientation, or color, except a religious cemetery may restrict its services to those of the same religious faith or creed. A cemetery authority operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation;

(j) to have clear and specific cemetery rules and regulations, subject to other applicable law, including this Act, and to apply them equally to all consumers and individuals ~~families~~ served;

(k) report all violations of this Act and this Section to the Department.

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

(225 ILCS 411/20-5)

(Section scheduled to be repealed on January 1, 2027)

Sec. 20-5. Maintenance and records.

(a) A cemetery authority shall provide reasonable maintenance of the cemetery property and of all lots, graves, crypts, and columbariums in the cemetery based on the type and size of the cemetery, topographic limitations, and contractual commitments with consumers. Subject to the provisions of this subsection (a), reasonable maintenance includes:

(1) the laying of seed, sod, or other suitable ground cover as soon as practical following an interment given the weather conditions, climate, and season and the interment's proximity to ongoing burial activity;

(2) the cutting of lawn throughout the cemetery at reasonable intervals to prevent an overgrowth of grass and weeds given the weather conditions, climate, and season;

(3) the trimming of shrubs to prevent excessive overgrowth;

(4) the trimming of trees to remove dead limbs;

(5) maintaining, repairing, or removing, if necessary, drains, water lines, roads, buildings, fences, and other structures; and

(6) keeping the cemetery premises free of trash and debris.

In determining whether a cemetery authority provides

reasonable maintenance of the cemetery property, the Department shall consider:

(1) the cemetery authority's contractual obligations for care and maintenance;

(2) the size of the cemetery;

(3) the extent and use of the cemetery authority's financial resources;

(4) the standard of maintenance of one or more similarly situated cemeteries; in determining whether a cemetery is similarly situated, the Department shall consider the cemetery's size, location, topography, and financial resources, and whether the cemetery is a fraternal cemetery, a religious cemetery, a public cemetery, a cemetery owned and operated by a cemetery association, or a licensed cemetery.

Reasonable maintenance by the cemetery authority shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with reasonable rules and regulations of the cemetery or other agreement of the cemetery authority.

In the case of a cemetery dedicated as a nature preserve under the Illinois Natural Areas Preservation Act, reasonable maintenance by the cemetery authority shall be in accordance with the rules and master plan governing the dedicated nature preserve.

A cemetery authority accused of violating the reasonable maintenance standard set forth in this Section shall have a reasonable opportunity to cure the violation. The cemetery authority shall have 10 business days after receipt of notice to cure the violation. If a cemetery authority cannot cure the violation within 10 business days, then the cemetery authority may request a time extension in order to cure the violation. The request for an extension shall be made in writing to the Department and must be postmarked within 10 business days after receipt of the notice of the alleged violation. The request shall outline all reasons for the extension and an estimated date by which the cure will be accomplished. Acceptable reasons include, without limitation, delays caused by weather conditions, season or climate, equipment failures, or acquisitions of materials or supplies being addressed by the authority in a timely manner, and unexpected temporary absences of personnel. The Department may approve or deny the extension. If the extension is denied, then the cemetery authority must cure the violation within 10 business days after the date of receipt of the Department's extension denial. If the extension is granted, then the cemetery authority must cure the violation within the extended period of time. A cemetery authority that does not cure the violation within the appropriate period of time shall be subject to discipline in accordance with Article 25 of this Act.

(b) A cemetery authority, before commencing cemetery

operations or within 6 months after the effective date of this Act, shall cause an overall map of its cemetery property, delineating all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations, to be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business. The cemetery authority shall update its map and index described in subsection (b-5) within a reasonable time after any expansion or alteration of the cemetery property. A cemetery manager's certificate acknowledging, accepting, and adopting the map shall also be included with the map. The Department may order that the cemetery authority obtain a cemetery plat and that it be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business if (1) a human body that should have been interred, entombed, or inurned at the cemetery after the effective date of this amendatory Act of the 97th General Assembly is missing, displaced, or dismembered and (2) the cemetery map contains serious discrepancies.

In exercising this discretion, the Department shall consider whether the cemetery authority would experience an undue hardship as a result of obtaining the plat. The cemetery plat, as with all plats prepared under this Act, shall comply with the Illinois Professional Land Surveyor Act of 1989 and shall delineate, describe, and set forth all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their

respective designations. A cemetery manager's certificate acknowledging, accepting, and adopting the plat shall also be included with the plat.

(b-5) A cemetery authority shall maintain an index that associates the identity of deceased persons interred, entombed, or inurned after the effective date of this Act with their respective place of interment, entombment, or inurnment.

(c) The cemetery authority shall open the cemetery map or plat to public inspection. The cemetery authority shall make available a copy of the overall cemetery map or plat upon written request and shall, if practical, provide a copy of a segment of the cemetery plat where interment rights are located upon the payment of reasonable photocopy fees. Any unsold lots, plots, or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size and properly designated on the cemetery map or plat. However, sold lots, plots, or parts thereof in which there are human remains may not be renumbered or renamed. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to its owner the excess space next to the interment right and permitting interments therein, provided reasonable access to the interment right and to adjoining interment rights is not thereby eliminated.

(d) A cemetery authority shall keep a record of every interment, entombment, and inurnment completed after the

effective date of this Act. The record shall include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. The specific location shall correspond to the map or plat maintained in accordance with subsection (b) of this Section.

(e) (Blank).

(f) A cemetery authority shall make publicly available ~~for inspection and, upon reasonable request and the payment of a reasonable copying fee,~~ provide a copy of its rules and regulations through continuous publication on an Internet website or social media page, with a reference to and notice of the rules and regulations for services in relation to the cemetery. A cemetery authority that does not operate or maintain a website or social media page shall provide an electronic or paper copy of its rules and regulations upon request of any person within 5 days of the person's request. A cemetery authority may charge a reasonable copying fee for a paper copy of the cemetery authority's rules and regulations. A cemetery authority shall make available for viewing and provide a copy of its current prices of interment, inurnment, ~~or~~ entombment rights, or disinterment services.

(g) A cemetery authority shall provide access to the cemetery under the cemetery authority's reasonable rules and regulations.

(h) A cemetery authority shall be responsible for the proper opening and closing of all graves, crypts, or niches

for human remains in any cemetery property it owns.

(i) A licensed cemetery authority shall keep in this State and use in its business such records as will enable the Department to determine whether such licensee or trustee is complying with the provisions of this Act and with the rules, regulations, and directions made by the Department under this Act. The licensed cemetery authority shall keep the records in electronic or written format at the location identified in the license issued by the Department or as otherwise agreed by the Department in writing. The books, accounts, and records shall be accessible for review upon demand of the Department.

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

Section 15. The Disposition of Remains Act is amended by changing Section 50 as follows:

(755 ILCS 65/50)

Sec. 50. Disputes.

(a) Any dispute among any of the persons listed in Section 5 concerning their right to control the disposition, including cremation, of a decedent's remains shall be resolved by a court of competent jurisdiction within 30 days of the dispute being filed with the court. A cemetery organization or funeral establishment shall not be liable for refusing to accept the decedent's remains, or to inter or otherwise dispose of the decedent's remains, until it receives a court order or other

suitable confirmation that the dispute has been resolved or settled.

(b) Any dispute over a disinterment shall be resolved by a circuit court with all reasonable promptness by the court. If the court finds that a party to a disinterment dispute has acted in bad faith, the court may, in its sole discretion, award costs, including reasonable attorney's fees, against the person it finds has acted in bad faith.

(Source: P.A. 101-381, eff. 1-1-20.)

Section 20. The Cemetery Protection Act is amended by changing Section 2 as follows:

(765 ILCS 835/2) (from Ch. 21, par. 16)

Sec. 2. (a) The cemetery authority is hereby authorized to make ~~by laws or~~ rules and regulations for the government thereof, including ~~and to make~~ rules regarding the driving of cars, motorcycles, carriages, processions, teams, and the speed thereof, the use of avenues, lots, walks, ponds, water courses, vaults, buildings, or other places within such cemetery, the operations and good management in such cemetery, the protection of visitors, the protection of employees, and for the maintenance of good order and quiet in such cemetery, so long as all such rules and regulations shall ~~to~~ be subject to the rights of interment, entombment, or inurnment right owners, or others, owning any interest in such cemetery; and

all persons found guilty of a violation of such rules shall be guilty of a petty offense and shall be punished by a fine of not less than \$100, nor more than \$500 for each offense. No judge shall be disqualified from hearing any cause that may be brought before him or her under the provisions of this Act, nor shall any person be disqualified from acting as a juror in such cause, by reason of any interest or ownership they or either of them may have in the interment, entombment, or inurnment rights of such cemetery.

(b) The rules and regulations, as referenced in subsection (a), shall be made publicly available through continuous publication on an Internet website or social media page that the cemetery authority maintains, operates, or uses. Each contract that a cemetery authority presents to a consumer shall contain a reference to and notice of the Internet website or social media page that it maintains, operates, or uses to make available its rules and regulations as referenced in subsection (a).

(c) If a cemetery authority does not maintain, operate, or use an Internet website or social media page, the cemetery authority must provide a consumer with either an email or paper copy of the rules and regulations, as referenced in subsection (a), at the execution of a contract or within 5 business days of request thereof. A cemetery authority may charge a reasonable copying fee in exchange for a paper copy of the cemetery authority's rules and regulations. Each contract

Public Act 103-0421

HB1571 Enrolled

LRB103 27276 LNS 53647 b

that a cemetery authority presents to a consumer shall contain a reference to and notice of such rules and regulations set forth together with information about where the consumer can access or obtain a copy of the rules and regulations.

(Source: P.A. 94-44, eff. 6-17-05.)