



Rep. Stephanie A. Kifowit

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10300HB4934ham001

LRB103 35553 JRC 71176 a

1 AMENDMENT TO HOUSE BILL 4934

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4934 by replacing  
3 everything after the enacting clause with the following:

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

1 States and has been buried in a grave that is more than 100  
2 years old.

3 "Veterans' organization" means an organization comprised  
4 of members of which substantially all are individuals who are  
5 veterans or spouses, widows, or widowers of veterans, the  
6 primary purpose of which is to promote the welfare of its  
7 members and to provide assistance to the general public in  
8 such a way as to confer a public benefit.

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

10 (765 ILCS 835/1) (from Ch. 21, par. 15)

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

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

21 (b) Any person who acts without proper legal authority and  
22 who willfully and knowingly:

23 (1) obliterates, vandalizes, or desecrates a burial  
24 ground where skeletal remains are buried or a grave,  
25 crypt, vault, mausoleum, or other repository of human

1 remains;

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

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

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

14 is guilty of a Class A misdemeanor if the amount of the damage  
15 is less than \$500, a Class 4 felony if the amount of the damage  
16 is at least \$500 and less than \$10,000, a Class 3 felony if the  
17 amount of the damage is at least \$10,000 and less than  
18 \$100,000, or a Class 2 felony if the damage is \$100,000 or more  
19 and shall provide restitution to the cemetery authority or  
20 property owner for the amount of any damage caused.

21 (b-5) Any person who acts without proper legal authority  
22 and who willfully and knowingly defaces, vandalizes, injures,  
23 or removes a gravestone or other memorial, monument, or marker  
24 commemorating a deceased person or group of persons, whether  
25 located within or outside of a recognized cemetery, memorial  
26 park, or battlefield is guilty of a Class 4 felony for damaging

1 at least one but no more than 4 gravestones, a Class 3 felony  
2 for damaging at least 5 but no more than 10 gravestones, or a  
3 Class 2 felony for damaging more than 10 gravestones and shall  
4 provide restitution to the cemetery authority or property  
5 owner for the amount of any damage caused.

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

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

23 (d) If an unemancipated minor is found guilty of violating  
24 any of the provisions of subsection (b) of this Section and is  
25 unable to provide restitution to the cemetery authority or  
26 property owner, the parents or legal guardians of that minor

1 shall provide restitution to the cemetery authority or  
2 property owner for the amount of any damage caused, up to the  
3 total amount allowed under the Parental Responsibility Law.

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

5 (1) any unauthorized, non-related third party or  
6 person who enters any sheds, crematories, or employee  
7 areas;

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

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

14 (4) any unauthorized person who removes, destroys, or  
15 disturbs any cemetery devices or property placed for  
16 safety of visitors and cemetery employees;

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

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

26 (f) Any person who knowingly enters or knowingly remains

1 upon the premises of a public or private cemetery without  
2 authorization during hours that the cemetery is posted as  
3 closed to the public is guilty of a Class A misdemeanor.

4 (g) All fines when recovered, shall be paid over by the  
5 court or officer receiving the same to the cemetery authority  
6 and be applied, as far as possible in repairing the injury, if  
7 any, caused by such offense. Provided, nothing contained in  
8 this Act shall deprive such cemetery authority or the owner of  
9 any interment, entombment, or inurnment right or monument from  
10 maintaining an action for the recovery of damages caused by  
11 any injury caused by a violation of the provisions of this Act,  
12 or of the rules established by the board of directors of such  
13 cemetery authority. Nothing in this Section shall be construed  
14 to prohibit the discharge of firearms loaded with blank  
15 ammunition as part of any funeral, any memorial observance or  
16 any other patriotic or military ceremony.

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

18 (765 ILCS 835/17 new)

19 Sec. 17. Memorialization of veteran remains.

20 (a) If a veterans' organization has identified human  
21 remains of a veteran that are more than 100 years old and  
22 wishes to have a marker placed to designate the grave as that  
23 of a veteran, a cemetery authority may allow memorialization  
24 without permission of the decedent's heirs under this Section.  
25 The marker may be for a previously unmarked grave or serve as a

1 replacement of or repair to an existing damaged marker. All  
2 costs for memorialization under this Section, including the  
3 marker, its installation, and any removal of or repair to a  
4 previous marker that is damaged, shall be entirely borne by  
5 the veterans' organization. In no event shall the human  
6 remains be disturbed.

7 (b) The memorialization and its installation, and any  
8 removal of or repair to a damaged marker, may only take place  
9 with the permission of the involved cemetery authority and in  
10 compliance with the rules and regulations and any collective  
11 bargaining agreement of the involved cemetery.

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

20 (d) If any heir of a decedent later objects to a  
21 memorialization made under this Section, the sole remedy shall  
22 be the removal of the involved marker at the expense of the  
23 involved veterans' organization. If the veterans' organization  
24 no longer exists or is without funds, removal shall be at the  
25 expense of the heir. In no event shall there be monetary  
26 damages, or any other equitable relief or penalties, against

1 the cemetery authority, cemetery, or veterans' association."