

AN ACT concerning State government.

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

Section 5. The Cemetery Protection Act is amended by changing Sections .01 and 1 and by adding Section 17 as follows:

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

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

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

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

"Not-for-profit corporation" means a corporation as defined in the General Not For Profit Corporation Act of 1986.

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

"Veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the

primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

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

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

Sec. 1. (a) 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 3 felony.

(a-5) 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 4 felony.

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

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

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

(3) obliterates, vandalizes, or desecrates plants,

trees, shrubs, or flowers located upon or around a repository for human remains or within a human graveyard or cemetery; or

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

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

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

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

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

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

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

(1) any unauthorized, non-related third party or

person who enters any sheds, crematories, or employee areas;

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

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

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

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

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

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

(g) All fines when recovered, shall be paid over by the court or officer receiving the same to the cemetery authority

and be applied, as far as possible in repairing the injury, if any, caused by such offense. Provided, nothing contained in this Act shall deprive such cemetery authority or the owner of any interment, entombment, or inurnment right or monument from maintaining an action for the recovery of damages caused by any injury caused by a violation of the provisions of this Act, or of the rules established by the board of directors of such cemetery authority. Nothing in this Section shall be construed to prohibit the discharge of firearms loaded with blank ammunition as part of any funeral, any memorial observance or any other patriotic or military ceremony.

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

(765 ILCS 835/17 new)

Sec. 17. Memorialization of veteran remains.

(a) If a veterans' organization or not-for-profit corporation has identified human remains of a veteran that are more than 100 years old and wishes to have a marker placed to designate the grave as that of a veteran, a cemetery authority may allow memorialization without permission of the decedent's heirs under this Section. The marker may be for a previously unmarked grave or serve as a replacement of or repair to an existing damaged marker. All costs for memorialization under this Section, including the marker, its installation, and any removal of or repair to a previous marker that is damaged, shall be entirely borne by the veterans' organization. In no

event shall the human remains be disturbed.

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

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

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