

1 AN ACT concerning civil law.

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

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

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

8 (225 ILCS 411/10-23)

9 (Section scheduled to be repealed on January 1, 2027)

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

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

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

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

1 beliefs;

2 (d) protect all confidential information;

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

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

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

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

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

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

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

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

1 (225 ILCS 411/20-5)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 20-5. Maintenance and records.

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

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

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

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

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

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

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

25 In determining whether a cemetery authority provides

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

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

5 (2) the size of the cemetery;

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

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

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

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

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

26 (b) A cemetery authority, before commencing cemetery

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

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

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

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

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

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

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

6 (e) (Blank).

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

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

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

1 for human remains in any cemetery property it owns.

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

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

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

15 (755 ILCS 65/50)

16 Sec. 50. Disputes.

17 (a) Any dispute among any of the persons listed in Section
18 5 concerning their right to control the disposition, including
19 cremation, of a decedent's remains shall be resolved by a
20 court of competent jurisdiction within 30 days of the dispute
21 being filed with the court. A cemetery organization or funeral
22 establishment shall not be liable for refusing to accept the
23 decedent's remains, or to inter or otherwise dispose of the
24 decedent's remains, until it receives a court order or other

1 suitable confirmation that the dispute has been resolved or
2 settled.

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

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

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

12 (765 ILCS 835/2) (from Ch. 21, par. 16)

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

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

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

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

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

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