

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

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

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

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

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

5 (765 ILCS 835/1) (from Ch. 21, par. 15)

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

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

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

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

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

25 (3) obliterates, vandalizes, or desecrates plants,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (765 ILCS 835/17 new)

14 Sec. 17. Memorialization of veteran remains.

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

1 event shall the human remains be disturbed.

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

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

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