

1 AN ACT concerning cemeteries.

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, 1, 2, 3, 4, 5, 5a, 8, 9, 10, 12, 13, and  
6 14 as 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 "cemetery authority" is defined as in Section 2  
10 of the "Cemetery Care Act", approved July 21, 1947, as now and  
11 hereafter amended.

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

15 (Source: Laws 1961, p. 2908.)

16 (765 ILCS 835/1) (from Ch. 21, par. 15)

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

21 (a-5) Any person who acts without proper legal authority  
22 and who willfully and knowingly removes any portion of the  
23 remains of a deceased human being from a burial ground where  
24 skeletal remains are buried or from a grave, crypt, vault,  
25 mausoleum, or other repository of human remains is guilty of a  
26 Class 4 felony.

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

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

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

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

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

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

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

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

1 (c) The provisions of this Section shall not apply to the  
2 removal or unavoidable breakage or injury by a cemetery  
3 authority of anything placed in or upon any portion of its  
4 cemetery in violation of any of the rules and regulations of  
5 the cemetery authority, nor to the removal of anything placed  
6 in the cemetery by or with the consent of the cemetery  
7 authority that in the judgment of the cemetery authority has  
8 become wrecked, unsightly, or dilapidated.

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

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

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

27 (g) All fines when recovered, shall be paid over by the  
28 court or officer receiving the same to the cemetery authority  
29 ~~association~~ and be applied, as far as possible in repairing the  
30 injury, if any, caused by such offense. Provided, nothing  
31 contained in this Act shall deprive such cemetery authority  
32 ~~association~~, or the owner of any interment, entombment, or  
33 inurement right ~~lot~~ or monument from maintaining an action for  
34 the recovery of damages caused by any injury caused by a  
35 violation of the provisions of this Act, or of the rules  
36 established by the board of directors of such cemetery

1 authority association. Nothing in this Section shall be  
2 construed to prohibit the discharge of firearms loaded with  
3 blank ammunition as part of any funeral, any memorial  
4 observance or any other patriotic or military ceremony.

5 (Source: P.A. 92-419, eff. 1-1-02.)

6 (765 ILCS 835/2) (from Ch. 21, par. 16)

7 Sec. 2. The cemetery authority ~~board of directors of such~~  
8 ~~society or association~~ is hereby authorized to make by-laws or  
9 rules and regulations for the government thereof, and to make  
10 rules regarding the driving of cars, motorcycles, carriages,  
11 processions, teams, and the speed thereof, the use of avenues,  
12 lots, walks, ponds, water courses, vaults, buildings, or other  
13 places within such cemetery, the operations and good management  
14 in such cemetery, the protection of visitors, the protection of  
15 employees, and for the maintenance of good order and quiet in  
16 such cemetery, all such rules to be subject to the rights of  
17 interment, entombment, or inurnment right ~~to~~ owners, or  
18 others, owning any interest in such cemetery; and all persons  
19 found guilty of a violation of such rules shall be guilty of a  
20 petty offense and shall be punished by a fine of not less than  
21 \$100 ~~\$5~~, nor more than \$500 ~~\$100~~ for each offense. No judge  
22 shall be disqualified from hearing any cause that may be  
23 brought before him under the provisions of this Act, nor shall  
24 any person be disqualified from acting as a juror in such  
25 cause, by reason of any interest or ownership they or either of  
26 them may have in the interment, entombment, or inurnment rights  
27 ~~lots~~ of such cemetery.

28 (Source: P.A. 78-255.)

29 (765 ILCS 835/3) (from Ch. 21, par. 17)

30 Sec. 3. The cemetery authority ~~directors of any cemetery~~  
31 ~~society, or cemetery association,~~ may appoint policemen to  
32 protect such cemetery and preserve order therein, and such  
33 policemen shall have the same power in respect to any offenses  
34 committed in such cemetery, or any violation of this act, that

1 city marshals or policemen in cities have in respect to  
2 maintaining order in such cities or arresting for offenses  
3 committed therein.

4 (Source: Laws 1885, p. 57.)

5 (765 ILCS 835/4) (from Ch. 21, par. 18)

6 Sec. 4. The cemetery authority ~~board of directors of such~~  
7 ~~cemetery society, or cemetery association, or the trustees of~~  
8 ~~any public graveyard,~~ may set apart such portion as they see  
9 fit of the moneys received from the sale of the interment,  
10 entombment, or inurnment rights ~~lots~~, in such cemetery or  
11 graveyard, which sums shall be kept separate from all other  
12 assets as an especial trust fund, and they shall keep the same  
13 invested in safe interest or income paying securities, for the  
14 purpose of keeping said cemetery or graveyard, and the  
15 interment, entombment, or inurnment rights ~~lots~~ therein,  
16 permanently in good order and repair, and the interest or  
17 income derived from such trust fund shall be applied only to  
18 that purpose, and shall not be diverted from such use.

19 (Source: Laws 1909, p. 101.)

20 (765 ILCS 835/5) (from Ch. 21, par. 19)

21 Sec. 5. It shall be the duty of the ~~board of directors of~~  
22 ~~such cemetery society, or cemetery~~ authority ~~association, or~~  
23 ~~trustees~~ of a public graveyard to receive by gift or bequest,  
24 real or personal property, or the income or avails of property  
25 which shall be conveyed in trust for the improvement,  
26 maintenance, repair, preservation and ornamentation of such  
27 interment, entombment, or inurnment rights ~~lot~~ or lots, vault  
28 or vaults, tomb or tombs, or other such structures in the  
29 cemetery or graveyard of which such board or trustees have  
30 control, as may be designated by the terms of such gift or  
31 bequest, and in accordance with such reasonable rules and  
32 regulations therefor, as shall be made by such board of  
33 directors or trustees, and such board of directors or trustees  
34 shall keep such trust funds invested in safe interest or income

1 bearing securities, the income from which shall be used for the  
2 purpose aforesaid.

3 (Source: Laws 1909, p. 101.)

4 (765 ILCS 835/5a) (from Ch. 21, par. 19a)

5 Sec. 5a. The cemetery authority ~~directors or managing~~  
6 ~~officers of any cemetery society or cemetery association~~ may  
7 invest the funds received under Section 4 or 5 in notes secured  
8 by a first mortgage or trust deed upon improved or income  
9 producing real estate situated in this State and not exceeding  
10 one-half the value thereof at the time the investment is made  
11 by the directors. Whenever any cemetery society or cemetery  
12 authority ~~association~~ acquires property as a result of the  
13 foreclosure of such mortgage, or in any other manner, the  
14 directors or managing officers of such society or authority  
15 ~~association~~ have the power to sell and convey the land  
16 received.

17 (Source: P.A. 80-660.)

18 (765 ILCS 835/8) (from Ch. 21, par. 21.1)

19 Sec. 8. Where the cemetery is a privately operated  
20 cemetery, as defined in Section 2 of the Cemetery Care Act,  
21 enacted by the Sixty-fifth General Assembly or where the  
22 interment, entombment rights in a community mausoleum or lawn  
23 crypt section, or inurnment rights in a community columbarium  
24 ~~lot or lots~~, vault or vaults, tomb or tombs, or other such  
25 structures in the cemetery or graveyard are in a privately  
26 operated cemetery, as defined in Section 2 of that Act, then  
27 such board of directors or managing officers of such cemetery,  
28 society or cemetery authority ~~association~~, or the trustees of  
29 any public graveyard or the cemetery society or cemetery  
30 association, shall also comply with the provisions of the  
31 Cemetery Care Act, enacted by the Sixty-fifth General Assembly.

32 (Source: Laws 1947, p. 356.)

33 (765 ILCS 835/9) (from Ch. 21, par. 21.2)

1           Sec. 9. When there is no memorial, monument, or marker  
2 installed on a cemetery interment right, entombment rights in a  
3 community mausoleum or lawn crypt section, or inurnment rights  
4 in a community columbarium ~~lot~~; no interment in a cemetery  
5 interment right, entombment rights in a community mausoleum or  
6 lawn crypt section, or inurnment right in a community  
7 columbarium ~~lot~~; no transfer or assignment of a cemetery  
8 interment right, entombment rights in a community mausoleum or  
9 lawn crypt section, or inurnment right in a community  
10 columbarium ~~lot~~ on the cemetery authority records; no contact  
11 by an owner recorded in the cemetery authority records;  
12 publication has been made in a ~~local~~ newspaper of general  
13 circulation in the county in which the interment, entombment,  
14 or inurnment rights are located and no response was received;  
15 and 50 ~~60~~ years have passed since the cemetery interment right,  
16 entombment rights in a community mausoleum or lawn crypt  
17 section, or inurnment right in a community columbarium ~~lot~~ was  
18 sold, there is a presumption that the cemetery interment right,  
19 entombment rights in a community mausoleum or lawn crypt  
20 section, or inurnment right in a community columbarium ~~lot~~ has  
21 been abandoned, unless a specific agreement has been entered  
22 into designating said rights to be inviolate. Alternatively,  
23 where there is an obligation to pay a cemetery authority,  
24 annually or periodically, maintenance or care charges on a  
25 cemetery interment right, entombment rights in a community  
26 mausoleum or lawn crypt section, or inurnment right in a  
27 community columbarium ~~lot~~, or part thereof, and the owner of or  
28 claimant to a right or easement for burial in such cemetery  
29 interment right, entombment rights in a community mausoleum or  
30 lawn crypt section, or inurnment right in a community  
31 columbarium ~~lot~~, or part thereof, has failed to pay the  
32 required annual or periodic maintenance or care charges for a  
33 period of 30 years or more, such continuous failure to do so  
34 creates and establishes a presumption that the cemetery  
35 interment right, entombment rights in a community mausoleum or  
36 lawn crypt section, or inurnment right in a community

1 columbarium lot, or part thereof, has been abandoned.

2 Upon a court's determination of abandonment, the ownership  
3 of a right or easement for burial in a cemetery interment  
4 right, entombment rights in a community mausoleum or lawn crypt  
5 section, or inurnment right in a community columbarium lot, or  
6 part thereof, shall be subject to sale in the manner  
7 hereinafter provided.

8 (Source: P.A. 92-419, eff. 1-1-02.)

9 (765 ILCS 835/10) (from Ch. 21, par. 21.3)

10 Sec. 10. A cemetery authority may file in the office of the  
11 clerk of the circuit court of the county in which the cemetery  
12 is located a verified petition praying for the entry of an  
13 order adjudging a cemetery interment right, entombment rights  
14 in a community mausoleum or lawn crypt section, or inurnment  
15 right in a community columbarium lot, or part thereof, to have  
16 been abandoned. The petition shall describe the cemetery  
17 interment right, entombment rights in a community mausoleum or  
18 lawn crypt section, or inurnment right in a community  
19 columbarium lot, or part thereof, alleged to have been  
20 abandoned, shall allege ownership by the petitioner of the  
21 cemetery, and, if known, the name of the owner of the right or  
22 easement for burial in such cemetery interment right,  
23 entombment rights in a community mausoleum or lawn crypt  
24 section, or inurnment right in a community columbarium lot, or  
25 part thereof, as is alleged to have been abandoned, or, if the  
26 owner thereof is known to the petitioner to be deceased, then  
27 the names, if known to petitioner, of such claimants thereto as  
28 are the heirs-at-law and next-of-kin or the specific legatees  
29 under the will of the owner of the right or easement for burial  
30 in such interment right, entombment rights in a community  
31 mausoleum or lawn crypt section, or inurnment right in a  
32 community columbarium lot, or part thereof, and such other  
33 facts as the petitioner may have with respect to ownership of  
34 the right or easement for burial in such cemetery interment  
35 right, entombment rights in a community mausoleum or lawn crypt



1 section, or inurnment right in a community columbarium ~~lot, or~~  
2 ~~part thereof.~~

3 The petition shall also allege the facts with respect to  
4 the abandonment of the cemetery interment right, entombment  
5 rights in a community mausoleum or lawn crypt section, or  
6 inurnment right in a community columbarium ~~lot~~ or facts about  
7 the obligation of the owner to pay annual or periodic  
8 maintenance or care charges on such cemetery interment right,  
9 entombment rights in a community mausoleum or lawn crypt  
10 section, or inurnment right in a community columbarium, ~~lot, or~~  
11 ~~part thereof,~~ the amount of such charges as are due and unpaid,  
12 and shall also allege the continuous failure by the owner or  
13 claimant to pay such charges for a period of 30 consecutive  
14 years or more.

15 Irrespective of diversity of ownership of the right or  
16 easement for burial therein, a cemetery authority may include  
17 in one petition as many cemetery interment rights, entombment  
18 rights in a community mausoleum or lawn crypt section, or  
19 inurnment rights in a community columbarium ~~lots, or parts~~  
20 ~~thereof,~~ as are alleged to have been abandoned.

21 (Source: P.A. 92-419, eff. 1-1-02.)

22 (765 ILCS 835/12) (from Ch. 21, par. 21.5)

23 Sec. 12. In the event the owner, the claimant, or the  
24 heirs-at-law and next-of-kin or the specific legatees under the  
25 will of either the owner or claimant submits proof of ownership  
26 to the court or appears and answers the petition, the  
27 presumption of abandonment shall no longer exist and the court  
28 shall set the matter for hearing upon the petition and such  
29 answers thereto as may be filed.

30 In the event the defendant or defendants fails to appear  
31 and answer the petition, or in the event that upon the hearing  
32 the court determines from the evidence presented that there has  
33 been an abandonment of the cemetery interment right, entombment  
34 rights in a community mausoleum or lawn crypt section, or  
35 inurnment right in a community columbarium ~~lot~~ for 50 ~~60~~ years

1 or a continuous failure to pay the annual or periodic  
2 maintenance or care charges on such interment right, entombment  
3 rights in a community mausoleum or lawn crypt section, or  
4 inurnment right in a community columbarium lot, or part  
5 thereof, for a period of 30 years or more preceding the filing  
6 of the petition, then, in either such event, an order shall be  
7 entered adjudicating such interment right, entombment rights  
8 in a community mausoleum or lawn crypt section, or inurnment  
9 right in a community columbarium lot, or part thereof, to have  
10 been abandoned and adjudging the right or easement for burial  
11 therein to be subject to sale by the cemetery authority at the  
12 expiration of one year from the date of the entry of such  
13 order. Upon entry of an order adjudicating abandonment of a  
14 cemetery interment right, entombment rights in a community  
15 mausoleum or lawn crypt section, or inurnment right in a  
16 community columbarium, lot, or part thereof, the court shall  
17 fix such sum as is deemed a reasonable fee for the services of  
18 petitioner's attorney.

19 (Source: P.A. 92-419, eff. 1-1-02.)

20 (765 ILCS 835/13) (from Ch. 21, par. 21.6)

21 Sec. 13. In the event that, at any time within one year  
22 after adjudication of abandonment, the owner or claimant of a  
23 interment right, entombment rights in a community mausoleum or  
24 lawn crypt section, or inurnment right in a community  
25 columbarium lot, or part thereof, which has been adjudged  
26 abandoned, shall contact the court or the cemetery authority  
27 and pay all maintenance or care charges that are due and  
28 unpaid, shall reimburse the cemetery authority for the costs of  
29 suit and necessary expenses incurred in the proceeding with  
30 respect to such interment right, entombment rights in a  
31 community mausoleum or lawn crypt section, or inurnment right  
32 in a community columbarium lot, or part thereof, and shall  
33 contract for its future care and maintenance, then such lot, or  
34 part thereof, shall not be sold as herein provided and, upon  
35 petition of the owner or claimant, the order or judgment

1 adjudging the same to have been abandoned shall be vacated as  
2 to such interment right, entombment rights in a community  
3 mausoleum or lawn crypt section, or inurnment right in a  
4 community columbarium ~~lot, or part thereof.~~

5 (Source: P.A. 92-419, eff. 1-1-02.)

6 (765 ILCS 835/14) (from Ch. 21, par. 21.7)

7 Sec. 14. After the expiration of one year from the date of  
8 entry of an order adjudging a interment right, entombment  
9 rights in a community mausoleum or lawn crypt section, or  
10 inurnment right in a community columbarium ~~lot, or part~~  
11 ~~thereof,~~ to have been abandoned, a cemetery authority shall  
12 have the right to do so and may sell such interment right,  
13 entombment rights in a community mausoleum or lawn crypt  
14 section, or inurnment right in a community columbarium ~~lot, or~~  
15 ~~part thereof,~~ at public sale and grant an easement therein for  
16 burial purposes to the purchaser at such sale, subject to the  
17 interment of any human remains theretofore placed therein and  
18 the right to maintain memorials placed thereon. A cemetery  
19 authority may bid at and purchase such interment right,  
20 entombment rights in a community mausoleum or lawn crypt  
21 section, or inurnment right in a community columbarium ~~lot, or~~  
22 ~~part thereof,~~ at such sale.

23 Notice of the time and place of any sale held pursuant to  
24 an order adjudicating abandonment of a cemetery interment  
25 right, entombment rights in a community mausoleum or lawn crypt  
26 section, or inurnment right in a community columbarium ~~, or~~  
27 ~~part thereof,~~ shall be published once in a newspaper of general  
28 circulation in the county in which the cemetery is located,  
29 such publication to be not less than 30 days prior to the date  
30 of sale.

31 The proceeds derived from any sale shall be used to  
32 reimburse the petitioner for the costs of suit and necessary  
33 expenses, including attorney's fees, incurred by petitioner in  
34 the proceeding, and the balance, if any, shall be deposited  
35 into the cemetery authority's care fund or, if there is no care

1 fund, used by the cemetery authority for the care of its  
2 cemetery and for no other purpose.

3 (Source: P.A. 92-419, eff. 1-1-02.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.