



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3726

by Rep. David R. Leitch

SYNOPSIS AS INTRODUCED:

New Act

Creates the Access to Landlocked Graves on Private Property Act. Defines "landlocked grave". Provides that owners of private property on which a landlocked grave is located have a duty to allow ingress and egress to the grave by: (1) family members and descendants of deceased persons buried there; (2) any cemetery plot owner; and (3) any person engaging in genealogy research who has given reasonable notice to the owner of record or to the occupant of the property or both. Provides that a landowner may not erect a wall, fence, or other structure or device that prevents ingress and egress to the grave unless the wall, fence, or other structure or device has a gate or other means by which ingress and egress can be accomplished. Provides that the landowner may designate the frequency of the access, the hours and duration of the access, and the access route if no traditional access route is obviously visible by a view of the property. Provides that the landowner, in the absence of gross negligence or willful misconduct, is immune from liability in any civil suit, claim, action, or cause of action arising out of the access granted. Provides that any person entering onto private property to access a landlocked grave is responsible for conducting himself or herself in a manner that does not damage the private lands or the grave and is liable to the owner of the property for any damage caused as a result of his or her access. Provides that a person denied reasonable access may bring an action in the circuit court where the property is located to enjoin the owner of the property from denying the person reasonable ingress and egress to the grave. Provides that in granting relief, the court may: (i) set the frequency of the access and the hours and duration of the access; and (ii) award reasonable attorney's fees and costs to the person denied access. Provides that the Act does not apply to any deed or other written instrument that creates or reserves a landlocked grave on private property.

LRB099 08579 HEP 28738 b

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. Short title. This Act may be cited as the Access
5 to Landlocked Graves on Private Property Act.

6 Section 5. Landlocked grave defined. As used in this Act,
7 "landlocked grave" means a private burying ground which is
8 completely surrounded by privately-owned land and for which no
9 public ingress or egress is available.

10 Section 10. Access to landlocked graves located on private
11 property.

12 (a) Owners of private property on which a landlocked grave
13 is located have a duty to allow ingress and egress to the
14 landlocked grave by:

15 (1) family members and descendants of deceased persons
16 buried there;

17 (2) any landlocked grave plot owner; and

18 (3) any person engaging in genealogy research who has
19 given reasonable notice to the owner of record or to the
20 occupant of the property or both.

21 A landowner may not erect a wall, fence, or other structure
22 or device that prevents ingress and egress to the landlocked

1 grave unless the wall, fence, or other structure or device has
2 a gate or other means by which ingress and egress can be
3 accomplished by persons specified in this Section. The
4 landowner may designate the frequency of the access, the hours
5 and duration of the access, and the access route if no
6 traditional access route is obviously visible by a view of the
7 property. The landowner, in the absence of gross negligence or
8 willful misconduct, is immune from liability in any civil suit,
9 claim, action, or cause of action arising out of the access
10 granted pursuant to this Section.

11 (b) The right of ingress and egress granted to persons
12 specified in subsection (a) of this Section shall be reasonable
13 and limited to the purposes of visiting landlocked graves,
14 maintaining the landlocked grave, or conducting genealogy
15 research. The right of ingress and egress may not be construed
16 to provide a right to operate motor vehicles on the property
17 for the purpose of accessing a landlocked grave unless there is
18 a road or adequate right-of-way that permits access by a motor
19 vehicle and the owner has given written permission to use the
20 road or right-of-way of necessity.

21 (c) Any person entering onto private property to access a
22 landlocked grave is responsible for conducting himself or
23 herself in a manner that does not damage the private lands or
24 the landlocked grave and is liable to the owner of the property
25 for any damage caused as a result of his or her access.

1 Section 15. Injunctive relief. Any person denied
2 reasonable access under the provisions of this Act may bring an
3 action in the circuit court where the property is located to
4 enjoin the owner of the property from denying the person
5 reasonable ingress and egress to the landlocked grave. In
6 granting relief, the court may:

7 (1) set the frequency of the access and the hours and
8 duration of the access; and

9 (2) award reasonable attorney's fees and costs to the
10 person denied access.

11 Section 20. Applicability. This Act does not apply to any
12 deed or other written instrument that creates or reserves a
13 landlocked grave on private property.