



Sen. Sara Feigenholtz

Filed: 4/13/2023

10300HB1571sam001

LRB103 27276 JDS 60072 a

1 AMENDMENT TO HOUSE BILL 1571

2 AMENDMENT NO. _____. Amend House Bill 1571 by replacing
3 everything after the enacting clause with the following:

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9 (Section scheduled to be repealed on January 1, 2027)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

1 violate Section 25-10 of this Act;

2 (b) be aware of applicable federal and State laws and
3 regulations, adhere to those laws and regulations, and be
4 able to explain them to families in an understandable
5 manner;

6 (c) treat all human remains with proper care and
7 dignity, honoring known religious, ethnic, and personal
8 beliefs;

9 (d) protect all confidential information;

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

12 (f) fulfill all written and verbal agreements and
13 contracts;

14 (g) provide honest, factual, and complete information
15 regarding all aspects of the services offered and
16 provided;

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

19 (i) not discriminate against any person because of
20 race, creed, marital status, sex, national origin, sexual
21 orientation, or color, except a religious cemetery may
22 restrict its services to those of the same religious faith
23 or creed. A cemetery authority operating any cemetery may
24 designate parts of cemeteries or burial grounds for the
25 specific use of persons whose religious code requires
26 isolation;

1 (j) to have clear and specific cemetery rules and
2 regulations, subject to other applicable law, including
3 this Act, and to apply them equally to all consumers and
4 individuals ~~families~~ served;

5 (k) report all violations of this Act and this Section
6 to the Department.

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

8 (225 ILCS 411/20-5)

9 (Section scheduled to be repealed on January 1, 2027)

10 Sec. 20-5. Maintenance and records.

11 (a) A cemetery authority shall provide reasonable
12 maintenance of the cemetery property and of all lots, graves,
13 crypts, and columbariums in the cemetery based on the type and
14 size of the cemetery, topographic limitations, and contractual
15 commitments with consumers. Subject to the provisions of this
16 subsection (a), reasonable maintenance includes:

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

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

24 (3) the trimming of shrubs to prevent excessive
25 overgrowth;

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

2 (5) maintaining, repairing, or removing, if necessary,
3 drains, water lines, roads, buildings, fences, and other
4 structures; and

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

7 In determining whether a cemetery authority provides
8 reasonable maintenance of the cemetery property, the
9 Department shall consider:

10 (1) the cemetery authority's contractual obligations
11 for care and maintenance;

12 (2) the size of the cemetery;

13 (3) the extent and use of the cemetery authority's
14 financial resources;

15 (4) the standard of maintenance of one or more
16 similarly situated cemeteries; in determining whether a
17 cemetery is similarly situated, the Department shall
18 consider the cemetery's size, location, topography, and
19 financial resources, and whether the cemetery is a
20 fraternal cemetery, a religious cemetery, a public
21 cemetery, a cemetery owned and operated by a cemetery
22 association, or a licensed cemetery.

23 Reasonable maintenance by the cemetery authority shall not
24 preclude the exercise of lawful rights by the owner of an
25 interment, inurnment, or entombment right, or by the
26 decedent's immediate family or other heirs, in accordance with

1 reasonable rules and regulations of the cemetery or other
2 agreement of the cemetery authority.

3 In the case of a cemetery dedicated as a nature preserve
4 under the Illinois Natural Areas Preservation Act, reasonable
5 maintenance by the cemetery authority shall be in accordance
6 with the rules and master plan governing the dedicated nature
7 preserve.

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

1 after the date of receipt of the Department's extension
2 denial. If the extension is granted, then the cemetery
3 authority must cure the violation within the extended period
4 of time. A cemetery authority that does not cure the violation
5 within the appropriate period of time shall be subject to
6 discipline in accordance with Article 25 of this Act.

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

1 In exercising this discretion, the Department shall
2 consider whether the cemetery authority would experience an
3 undue hardship as a result of obtaining the plat. The cemetery
4 plat, as with all plats prepared under this Act, shall comply
5 with the Illinois Professional Land Surveyor Act of 1989 and
6 shall delineate, describe, and set forth all lots or plots,
7 blocks, sections, avenues, walks, alleys, and paths and their
8 respective designations. A cemetery manager's certificate
9 acknowledging, accepting, and adopting the plat shall also be
10 included with the plat.

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

15 (c) The cemetery authority shall open the cemetery map or
16 plat to public inspection. The cemetery authority shall make
17 available a copy of the overall cemetery map or plat upon
18 written request and shall, if practical, provide a copy of a
19 segment of the cemetery plat where interment rights are
20 located upon the payment of reasonable photocopy fees. Any
21 unsold lots, plots, or parts thereof, in which there are not
22 human remains, may be resurveyed and altered in shape or size
23 and properly designated on the cemetery map or plat. However,
24 sold lots, plots, or parts thereof in which there are human
25 remains may not be renumbered or renamed. Nothing contained in
26 this subsection, however, shall prevent the cemetery authority

1 from enlarging an interment right by selling to its owner the
2 excess space next to the interment right and permitting
3 interments therein, provided reasonable access to the
4 interment right and to adjoining interment rights is not
5 thereby eliminated.

6 (d) A cemetery authority shall keep a record of every
7 interment, entombment, and inurnment completed after the
8 effective date of this Act. The record shall include the
9 deceased's name, age, date of burial, and the specific
10 location of the interred, entombed, or inurned human remains.
11 The specific location shall correspond to the map or plat
12 maintained in accordance with subsection (b) of this Section.

13 (e) (Blank).

14 (f) A cemetery authority shall make publicly available ~~for~~
15 ~~inspection and, upon reasonable request and the payment of a~~
16 ~~reasonable copying fee, provide~~ a copy of its rules and
17 regulations through continuous publication on an Internet
18 website or social media page, with a reference to and notice of
19 the rules and regulations set forth in every contract or legal
20 agreement with any person for services in relation to the
21 cemetery. If the cemetery authority does not operate or
22 maintain any website or social media page, then it shall
23 provide a copy of its rules and regulations to each person
24 either prior to or contemporaneous with the cemetery
25 authority's representative's presentment of any contract or
26 legal agreement for services in relation to the cemetery or

1 within 5 days of such a person's request. A cemetery authority
2 may charge a reasonable copying fee in exchange for a paper
3 copy of the cemetery authority's rules and regulations. A
4 cemetery authority shall make available for viewing and
5 provide a copy of its current prices of interment,
6 disinterment, inurnment, or entombment rights.

7 (g) A cemetery authority shall provide access to the
8 cemetery under the cemetery authority's reasonable rules and
9 regulations.

10 (h) A cemetery authority shall be responsible for the
11 proper opening and closing of all graves, crypts, or niches
12 for human remains in any cemetery property it owns.

13 (i) A licensed cemetery authority shall keep in this State
14 and use in its business such records as will enable the
15 Department to determine whether such licensee or trustee is
16 complying with the provisions of this Act and with the rules,
17 regulations, and directions made by the Department under this
18 Act. The licensed cemetery authority shall keep the records in
19 electronic or written format at the location identified in the
20 license issued by the Department or as otherwise agreed by the
21 Department in writing. The books, accounts, and records shall
22 be accessible for review upon demand of the Department.

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

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

1 (755 ILCS 65/50)

2 Sec. 50. Disputes.

3 (a) Any dispute among any of the persons listed in Section
4 5 concerning their right to control the disposition, including
5 cremation, of a decedent's remains shall be resolved by a
6 court of competent jurisdiction within 30 days of the dispute
7 being filed with the court. A cemetery organization or funeral
8 establishment shall not be liable for refusing to accept the
9 decedent's remains, or to inter or otherwise dispose of the
10 decedent's remains, until it receives a court order or other
11 suitable confirmation that the dispute has been resolved or
12 settled.

13 (b) Any dispute over a disinterment shall be resolved by a
14 circuit court with all reasonable promptness by the court. If
15 the court finds that a party to a disinterment dispute has
16 acted in bad faith, the court may, in its sole discretion,
17 award costs, including reasonable attorney's fees, against the
18 person it finds has acted in bad faith.

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

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

22 (765 ILCS 835/2) (from Ch. 21, par. 16)

23 Sec. 2. The cemetery authority is hereby authorized to

1 make ~~by laws or~~ rules and regulations for the government
2 thereof, and to make rules regarding the driving of cars,
3 motorcycles, carriages, processions, teams, and the speed
4 thereof, the use of avenues, lots, walks, ponds, water
5 courses, vaults, buildings, or other places within such
6 cemetery, the operations and good management in such cemetery,
7 the protection of visitors, the protection of employees, and
8 for the maintenance of good order and quiet in such cemetery,
9 all such rules to be subject to the rights of interment,
10 entombment, ~~or~~ inurnment, and disinterment right owners, or
11 others, owning any interest in such cemetery; and all persons
12 found guilty of a violation of such rules shall be guilty of a
13 petty offense and shall be punished by a fine of not less than
14 \$100, nor more than \$500 for each offense. No judge shall be
15 disqualified from hearing any cause that may be brought before
16 him under the provisions of this Act, nor shall any person be
17 disqualified from acting as a juror in such cause, by reason of
18 any interest or ownership they or either of them may have in
19 the interment, entombment, or inurnment rights of such
20 cemetery. The rules and regulations shall be made publicly
21 available through continuous publication on an Internet
22 website or social media page, with a reference to and notice of
23 the rules and regulations set forth in every contract or legal
24 agreement with any person for services in relation to the
25 cemetery. If the cemetery authority does not operate or
26 maintain any website or social media page, then it shall

1 provide a copy of the rules and regulations to each person
2 either prior to or contemporaneous with the cemetery
3 authority's representative's presentment of any contract or
4 legal agreement for services in relation to the cemetery or
5 within 5 days of such a person's request. A cemetery authority
6 may charge a reasonable copying fee in exchange for a paper
7 copy of the cemetery authority's rules and regulations.

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