



Rep. Jim Watson

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09400HB0264ham001

LRB094 06182 LCB 42164 a

1 AMENDMENT TO HOUSE BILL 264

2 AMENDMENT NO. _____. Amend House Bill 264 by replacing
3 everything after the enacting clause with the following:

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

1 skeletal remains are buried or from a grave, crypt, vault,
2 mausoleum, or other repository of human remains is guilty of a
3 Class 4 felony.

4 (b) Any person who acts without proper legal authority and
5 who willfully and knowingly:

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

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

12 (3) obliterates, vandalizes, or desecrates plants,
13 trees, shrubs, or flowers located upon or around a
14 repository for human remains or within a human graveyard or
15 cemetery; or

16 (4) obliterates, vandalizes, or desecrates a fence,
17 rail, curb, or other structure of a similar nature intended
18 for the protection or for the ornamentation of any tomb,
19 monument, gravestone, or other structure of like
20 character;

21 is guilty of a Class A misdemeanor if the amount of the damage
22 is less than \$500, a Class 4 felony if the amount of the damage
23 is at least \$500 and less than \$10,000, a Class 3 felony if the
24 amount of the damage is at least \$10,000 and less than
25 \$100,000, or a Class 2 felony if the damage is \$100,000 or more
26 and shall provide restitution to the cemetery authority or
27 property owner for the amount of any damage caused.

28 (b-5) Any person who acts without proper legal authority
29 and who willfully and knowingly defaces, vandalizes, injures,
30 or removes a gravestone or other memorial, monument, or marker
31 commemorating a deceased person or group of persons, whether
32 located within or outside of a recognized cemetery, memorial
33 park, or battlefield is guilty of a Class 4 felony for damaging
34 at least one but no more than 4 gravestones, a Class 3 felony

1 for damaging at least 5 but no more than 10 gravestones, or a
2 Class 2 felony for damaging more than 10 gravestones and shall
3 provide restitution to the cemetery authority or property owner
4 for the amount of any damage caused.

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

11 (c) The provisions of this Section shall not apply to the
12 removal or unavoidable breakage or injury by a cemetery
13 authority of anything placed in or upon any portion of its
14 cemetery in violation of any of the rules and regulations of
15 the cemetery authority, nor to the removal of anything placed
16 in the cemetery by or with the consent of the cemetery
17 authority that in the judgment of the cemetery authority has
18 become wrecked, unsightly, or dilapidated.

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

26 (e) Any person who shall hunt, shoot or discharge any gun,
27 pistol or other missile, within the limits of any cemetery, or
28 shall cause any shot or missile to be discharged into or over
29 any portion thereof, or shall violate any of the rules made and
30 established by the board of directors of such cemetery, for the
31 protection or government thereof, is guilty of a Class C
32 misdemeanor.

33 (f) Any person who knowingly enters or knowingly remains
34 upon the premises of a public or private cemetery without

1 authorization during hours that the cemetery is posted as
2 closed to the public is guilty of a Class A misdemeanor.

3 (g) All fines when recovered, shall be paid over by the
4 court or officer receiving the same to the cemetery authority
5 ~~association~~ and be applied, as far as possible in repairing the
6 injury, if any, caused by such offense. Provided, nothing
7 contained in this Act shall deprive such cemetery authority
8 ~~association~~, or the owner of any interment, entombment, or
9 inurement right lot or monument from maintaining an action for
10 the recovery of damages caused by any injury caused by a
11 violation of the provisions of this Act, or of the rules
12 established by the board of directors of such cemetery
13 authority association. Nothing in this Section shall be
14 construed to prohibit the discharge of firearms loaded with
15 blank ammunition as part of any funeral, any memorial
16 observance or any other patriotic or military ceremony.

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

18 (765 ILCS 835/2) (from Ch. 21, par. 16)

19 Sec. 2. The cemetery authority ~~board of directors of such~~
20 ~~society or association~~ is hereby authorized to make by-laws or
21 rules and regulations for the government thereof, and to make
22 rules regarding the driving of cars, motorcycles, carriages,
23 processions, teams, and the speed thereof, the use of avenues,
24 lots, walks, ponds, water courses, vaults, buildings, or other
25 places within such cemetery, the operations and good management
26 in such cemetery, the protection of visitors, the protection of
27 employees, and for the maintenance of good order and quiet in
28 such cemetery, all such rules to be subject to the rights of
29 interment, entombment, or inurnment right lot owners, or
30 others, owning any interest in such cemetery; and all persons
31 found guilty of a violation of such rules shall be guilty of a
32 petty offense and shall be punished by a fine of not less than
33 \$100 ~~\$5~~, nor more than \$500 ~~\$100~~ for each offense. No judge

1 shall be disqualified from hearing any cause that may be
2 brought before him under the provisions of this Act, nor shall
3 any person be disqualified from acting as a juror in such
4 cause, by reason of any interest or ownership they or either of
5 them may have in the interment, entombment, or inurnment rights
6 ~~lots~~ of such cemetery.

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

8 (765 ILCS 835/3) (from Ch. 21, par. 17)

9 Sec. 3. The cemetery authority ~~directors of any cemetery~~
10 ~~society, or cemetery association,~~ may appoint policemen to
11 protect such cemetery and preserve order therein, and such
12 policemen shall have the same power in respect to any offenses
13 committed in such cemetery, or any violation of this act, that
14 city marshals or policemen in cities have in respect to
15 maintaining order in such cities or arresting for offenses
16 committed therein.

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

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

19 Sec. 4. The cemetery authority ~~board of directors of such~~
20 ~~cemetery society, or cemetery association, or the trustees of~~
21 ~~any public graveyard,~~ may set apart such portion as they see
22 fit of the moneys received from the sale of the interment,
23 entombment, or inurnment rights ~~lots,~~ in such cemetery or
24 graveyard, which sums shall be kept separate from all other
25 assets as an especial trust fund, and they shall keep the same
26 invested in safe interest or income paying securities, for the
27 purpose of keeping said cemetery or graveyard, and the
28 interment, entombment, or inurnment rights ~~lots~~ therein,
29 permanently in good order and repair, and the interest or
30 income derived from such trust fund shall be applied only to
31 that purpose, and shall not be diverted from such use.

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

1 (765 ILCS 835/5) (from Ch. 21, par. 19)

2 Sec. 5. It shall be the duty of the ~~board of directors of~~
3 ~~such cemetery society, or cemetery~~ authority association, ~~or~~
4 ~~trustees~~ of a public graveyard to receive by gift or bequest,
5 real or personal property, or the income or avails of property
6 which shall be conveyed in trust for the improvement,
7 maintenance, repair, preservation and ornamentation of such
8 interment, entombment, or inurnment rights ~~lot~~ or lots, vault
9 or vaults, tomb or tombs, or other such structures in the
10 cemetery or graveyard of which such board or trustees have
11 control, as may be designated by the terms of such gift or
12 bequest, and in accordance with such reasonable rules and
13 regulations therefor, as shall be made by such board of
14 directors or trustees, and such board of directors or trustees
15 shall keep such trust funds invested in safe interest or income
16 bearing securities, the income from which shall be used for the
17 purpose aforesaid.

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

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

20 Sec. 5a. The cemetery authority ~~directors or managing~~
21 ~~officers of any cemetery society or cemetery association~~ may
22 invest the funds received under Section 4 or 5 in notes secured
23 by a first mortgage or trust deed upon improved or income
24 producing real estate situated in this State and not exceeding
25 one-half the value thereof at the time the investment is made
26 by the directors. Whenever any cemetery society or cemetery
27 authority association acquires property as a result of the
28 foreclosure of such mortgage, or in any other manner, the
29 directors or managing officers of such society or authority
30 ~~association~~ have the power to sell and convey the land
31 received.

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

1 (765 ILCS 835/8) (from Ch. 21, par. 21.1)

2 Sec. 8. Where the cemetery is a privately operated
3 cemetery, as defined in Section 2 of the Cemetery Care Act,
4 enacted by the Sixty-fifth General Assembly or where the
5 interment, entombment rights in a community mausoleum or lawn
6 crypt section, or inurnment rights in a community columbarium
7 ~~lot or lots~~, vault or vaults, tomb or tombs, or other such
8 structures in the cemetery or graveyard are in a privately
9 operated cemetery, as defined in Section 2 of that Act, then
10 such board of directors or managing officers of such cemetery,
11 society or cemetery authority ~~association~~, or the trustees of
12 any public graveyard or the cemetery society or cemetery
13 association, shall also comply with the provisions of the
14 Cemetery Care Act, enacted by the Sixty-fifth General Assembly.
15 (Source: Laws 1947, p. 356.)

16 (765 ILCS 835/9) (from Ch. 21, par. 21.2)

17 Sec. 9. When there is no memorial, monument, or marker
18 installed on a cemetery interment right, entombment rights in a
19 community mausoleum or lawn crypt section, or inurnment rights
20 in a community columbarium ~~lot~~; no interment in a cemetery
21 interment right, entombment rights in a community mausoleum or
22 lawn crypt section, or inurnment right in a community
23 columbarium ~~lot~~; no transfer or assignment of a cemetery
24 interment right, entombment rights in a community mausoleum or
25 lawn crypt section, or inurnment right in a community
26 columbarium ~~lot~~ on the cemetery authority records; no contact
27 by an owner recorded in the cemetery authority records;
28 publication has been made in a ~~local~~ newspaper of general
29 circulation in the county in which the interment, entombment,
30 or inurnment rights are located and no response was received;
31 and 50 ~~60~~ years have passed since the cemetery interment right,
32 entombment rights in a community mausoleum or lawn crypt

1 section, or inurnment right in a community columbarium ~~lot~~ was
2 sold, there is a presumption that the cemetery interment right,
3 entombment rights in a community mausoleum or lawn crypt
4 section, or inurnment right in a community columbarium ~~lot~~ has
5 been abandoned, unless a specific agreement has been entered
6 into designating said rights to be inviolate. Alternatively,
7 where there is an obligation to pay a cemetery authority,
8 annually or periodically, maintenance or care charges on a
9 cemetery interment right, entombment rights in a community
10 mausoleum or lawn crypt section, or inurnment right in a
11 community columbarium ~~lot~~, or part thereof, and the owner of or
12 claimant to a right or easement for burial in such cemetery
13 interment right, entombment rights in a community mausoleum or
14 lawn crypt section, or inurnment right in a community
15 columbarium ~~lot~~, or part thereof, has failed to pay the
16 required annual or periodic maintenance or care charges for a
17 period of 30 years or more, such continuous failure to do so
18 creates and establishes a presumption that the cemetery
19 interment right, entombment rights in a community mausoleum or
20 lawn crypt section, or inurnment right in a community
21 columbarium ~~lot~~, or part thereof, has been abandoned.

22 Upon a court's determination of abandonment, the ownership
23 of a right or easement for burial in a cemetery interment
24 right, entombment rights in a community mausoleum or lawn crypt
25 section, or inurnment right in a community columbarium ~~lot~~, or
26 part thereof, shall be subject to sale in the manner
27 hereinafter provided.

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

29 (765 ILCS 835/10) (from Ch. 21, par. 21.3)

30 Sec. 10. A cemetery authority may file in the office of the
31 clerk of the circuit court of the county in which the cemetery
32 is located a verified petition praying for the entry of an
33 order adjudging a cemetery interment right, entombment rights

1 in a community mausoleum or lawn crypt section, or inurnment
2 right in a community columbarium ~~lot, or part thereof,~~ to have
3 been abandoned. The petition shall describe the cemetery
4 interment right, entombment rights in a community mausoleum or
5 lawn crypt section, or inurnment right in a community
6 columbarium ~~lot, or part thereof,~~ alleged to have been
7 abandoned, shall allege ownership by the petitioner of the
8 cemetery, and, if known, the name of the owner of the right or
9 easement for burial in such cemetery interment right,
10 entombment rights in a community mausoleum or lawn crypt
11 section, or inurnment right in a community columbarium ~~lot, or~~
12 ~~part thereof,~~ as is alleged to have been abandoned, or, if the
13 owner thereof is known to the petitioner to be deceased, then
14 the names, if known to petitioner, of such claimants thereto as
15 are the heirs-at-law and next-of-kin or the specific legatees
16 under the will of the owner of the right or easement for burial
17 in such interment right, entombment rights in a community
18 mausoleum or lawn crypt section, or inurnment right in a
19 community columbarium ~~lot, or part thereof,~~ and such other
20 facts as the petitioner may have with respect to ownership of
21 the right or easement for burial in such cemetery interment
22 right, entombment rights in a community mausoleum or lawn crypt
23 section, or inurnment right in a community columbarium ~~lot, or~~
24 ~~part thereof.~~

25 The petition shall also allege the facts with respect to
26 the abandonment of the cemetery interment right, entombment
27 rights in a community mausoleum or lawn crypt section, or
28 inurnment right in a community columbarium ~~lot~~ or facts about
29 the obligation of the owner to pay annual or periodic
30 maintenance or care charges on such cemetery interment right,
31 entombment rights in a community mausoleum or lawn crypt
32 section, or inurnment right in a community columbarium ~~lot, or~~
33 ~~part thereof,~~ the amount of such charges as are due and unpaid,
34 and shall also allege the continuous failure by the owner or

1 claimant to pay such charges for a period of 30 consecutive
2 years or more.

3 Irrespective of diversity of ownership of the right or
4 easement for burial therein, a cemetery authority may include
5 in one petition as many cemetery interment rights, entombment
6 rights in a community mausoleum or lawn crypt section, or
7 inurnment rights in a community columbarium ~~lots, or parts~~
8 ~~thereof,~~ as are alleged to have been abandoned.
9 (Source: P.A. 92-419, eff. 1-1-02.)

10 (765 ILCS 835/12) (from Ch. 21, par. 21.5)

11 Sec. 12. In the event the owner, the claimant, or the
12 heirs-at-law and next-of-kin or the specific legatees under the
13 will of either the owner or claimant submits proof of ownership
14 to the court or appears and answers the petition, the
15 presumption of abandonment shall no longer exist and the court
16 shall set the matter for hearing upon the petition and such
17 answers thereto as may be filed.

18 In the event the defendant or defendants fails to appear
19 and answer the petition, or in the event that upon the hearing
20 the court determines from the evidence presented that there has
21 been an abandonment of the cemetery interment right, entombment
22 rights in a community mausoleum or lawn crypt section, or
23 inurnment right in a community columbarium ~~lot~~ for 50 ~~60~~ years
24 or a continuous failure to pay the annual or periodic
25 maintenance or care charges on such interment right, entombment
26 rights in a community mausoleum or lawn crypt section, or
27 inurnment right in a community columbarium ~~lot~~, or part
28 thereof, for a period of 30 years or more preceding the filing
29 of the petition, then, in either such event, an order shall be
30 entered adjudicating such interment right, entombment rights
31 in a community mausoleum or lawn crypt section, or inurnment
32 right in a community columbarium ~~lot, or part thereof,~~ to have
33 been abandoned and adjudging the right or easement for burial

1 therein to be subject to sale by the cemetery authority at the
2 expiration of one year from the date of the entry of such
3 order. Upon entry of an order adjudicating abandonment of a
4 cemetery interment right, entombment rights in a community
5 mausoleum or lawn crypt section, or inurnment right in a
6 community columbarium lot, or part thereof, the court shall fix
7 such sum as is deemed a reasonable fee for the services of
8 petitioner's attorney.

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

10 (765 ILCS 835/13) (from Ch. 21, par. 21.6)

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

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

31 (765 ILCS 835/14) (from Ch. 21, par. 21.7)

32 Sec. 14. After the expiration of one year from the date of

1 entry of an order adjudging a interment right, entombment
2 rights in a community mausoleum or lawn crypt section, or
3 inurnment right in a community columbarium ~~lot, or part~~
4 thereof, to have been abandoned, a cemetery authority shall
5 have the right to do so and may sell such interment right,
6 entombment rights in a community mausoleum or lawn crypt
7 section, or inurnment right in a community columbarium ~~lot, or~~
8 part thereof, at public sale and grant an easement therein for
9 burial purposes to the purchaser at such sale, subject to the
10 interment of any human remains theretofore placed therein and
11 the right to maintain memorials placed thereon. A cemetery
12 authority may bid at and purchase 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 such sale.

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

24 The proceeds derived from any sale shall be used to
25 reimburse the petitioner for the costs of suit and necessary
26 expenses, including attorney's fees, incurred by petitioner in
27 the proceeding, and the balance, if any, shall be deposited
28 into the cemetery authority's care fund or, if there is no care
29 fund, used by the cemetery authority for the care of its
30 cemetery and for no other purpose.

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

32 Section 99. Effective date. This Act takes effect upon
33 becoming law."