

AN ACT concerning cemeteries.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Cemetery Protection Act is amended by changing Sections .01, 1, 2, 3, 4, 5, 5a, 8, 9, 10, 12, 13, and 14 as follows:

(765 ILCS 835/.01) (from Ch. 21, par. 14.01)

Sec. .01. For the purposes of this Act, the term:

"Cemetery "~~cemetery~~ authority" is defined as in Section 2 of the "Cemetery Care Act", approved July 21, 1947, as now and hereafter amended.

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

(Source: Laws 1961, p. 2908.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Source: Laws 1885, p. 57.)

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

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

(Source: Laws 1909, p. 101.)

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

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

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

(Source: Laws 1909, p. 101.)

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

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

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

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

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

(Source: Laws 1947, p. 356.)

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

Sec. 9. When there is no memorial, monument, or marker installed on a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment rights in a community columbarium ~~lot~~; no interment in a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~; no transfer or assignment of a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~ on the cemetery authority records; no contact by an owner recorded in the cemetery authority records; publication has been made in a ~~local~~ newspaper of general circulation in the county in which the interment, entombment, or inurnment rights are located and no response was received; and 50 ~~60~~ years have passed since the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~ was sold, there is a presumption that the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~ has been abandoned, unless a specific agreement has been entered into designating said rights to be inviolate. Alternatively, where there is an obligation to pay a cemetery authority, annually or periodically, maintenance or care charges on a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~, or part thereof, and the owner of or claimant to a right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium ~~lot~~, or part thereof, has failed to pay the required annual or periodic maintenance or care charges for a period of 30 years or more, such continuous failure to do so creates and establishes a presumption that the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community

columbarium lot, or part thereof, has been abandoned.

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

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

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

Sec. 10. A cemetery authority may file in the office of the clerk of the circuit court of the county in which the cemetery is located a verified petition praying for the entry of an order adjudging a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium lot, or part thereof, to have been abandoned. The petition shall describe the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium lot, or part thereof, alleged to have been abandoned, shall allege ownership by the petitioner of the cemetery, and, if known, the name of the owner of the right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium lot, or part thereof, as is alleged to have been abandoned, or, if the owner thereof is known to the petitioner to be deceased, then the names, if known to petitioner, of such claimants thereto as are the heirs-at-law and next-of-kin or the specific legatees under the will of the owner of the right or easement for burial in such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium lot, or part thereof, and such other facts as the petitioner may have with respect to ownership of the right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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