

SENATE BILL 616

E1

5lr3140
CF 5lr2114

By: **Senator McKay**

Introduced and read first time: January 25, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Human Remains, Pet Remains, and Cemeteries – Prohibitions**

3 FOR the purpose of altering the definition of permanent cemetery to include a cemetery
4 owned by a family or religious organization; prohibiting a person from tampering
5 with human remains interred in a cemetery; altering certain penalties relating to
6 prohibitions against removal of human remains from a burial site; prohibiting a
7 person from damaging, desecrating, mutilating, storing, tampering with, trafficking,
8 or transporting human remains; altering certain penalties relating to prohibitions
9 against damaging funerary objects, landscaping, and other structures in a cemetery;
10 prohibiting a person from removing or attempting to remove pet remains from a
11 cemetery; prohibiting a person from damaging, desecrating, mutilating, storing,
12 tampering with, trafficking, or transporting pet remains, subject to a certain
13 exception; and generally relating to human remains, pet remains, and cemeteries.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 10–401, 10–402(a) and (g), and 10–404
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2024 Supplement)

19 BY repealing
20 Article – Criminal Law
21 Section 10–402(h)
22 Annotated Code of Maryland
23 (2021 Replacement Volume and 2024 Supplement)

24 BY adding to
25 Article – Criminal Law
26 Section 10–402(h), 10–402.1, and 10–627
27 Annotated Code of Maryland
28 (2021 Replacement Volume and 2024 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 1–209
Annotated Code of Maryland
(2018 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

10–401.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Associated funerary object” means an item of human manufacture or
use that is intentionally placed:

(i) with human remains at the time of interment in a burial site; or

(ii) after interment, as a part of a death ceremony of a culture,
religion, or group.

(2) “Associated funerary object” includes a gravestone, monument, tomb,
or other structure in or directly associated with a burial site.

(c) (1) “Burial site” means a natural or prepared physical location, whether
originally located below, on, or above the surface of the earth, into which human remains
or associated funerary objects are deposited as a part of a death ceremony of a culture,
religion, or group.

(2) “Burial site” includes the human remains and associated funerary
objects that result from a shipwreck or accident and are left intentionally to remain at the
site.

(d) “Permanent cemetery” means a cemetery that is owned by:

(1) a cemetery company regulated under Title 5 of the Business Regulation
Article;

(2) **A FAMILY;**

(3) a nonprofit organization; [or]

(4) **A RELIGIOUS ORGANIZATION; OR**

1 ~~[(3)] (5)~~ the State.

2 10-402.

3 (a) Except as provided in subsections (b) and (f) of this section, a person may not:

4 (1) remove or attempt to remove human remains from a burial site; OR

5 (2) **TAMPER WITH HUMAN REMAINS INTERRED IN A CEMETERY.**

6 (g) (1) A person who violates this section is guilty of a ~~[misdemeanor]~~ **FELONY**
7 and on conviction is subject to:

8 (I) **FOR A FIRST VIOLATION, imprisonment not LESS THAN 5**
9 **YEARS AND NOT exceeding [5] 10 years or a fine [not exceeding \$10,000] OF AT LEAST**
10 **\$20,000 or both; AND**

11 (II) **FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT FOR**
12 **NOT LESS THAN 10 YEARS AND NOT EXCEEDING 15 YEARS OR A FINE OF AT LEAST**
13 **\$30,000 OR BOTH.**

14 (2) (I) **IN THIS PARAGRAPH, “DEPARTMENT” HAS THE MEANING**
15 **STATED IN § 2-109 OF THE CRIMINAL PROCEDURE ARTICLE.**

16 (II) **A DEPARTMENT MAY DENY AN OCCUPATIONAL LICENSE OR**
17 **CERTIFICATE TO AN APPLICANT OR REVOKE THE OCCUPATIONAL LICENSE OR**
18 **CERTIFICATE OF A HOLDER IF THE APPLICANT OR HOLDER IS CONVICTED OF A**
19 **VIOLATION OF THIS SECTION.**

20 [(h) A person who violates this section is subject to § 5-106(b) of the Courts
21 Article.]

22 (H) (1) **A FAMILY MEMBER OR DESCENDANT MAY BRING A CIVIL ACTION**
23 **IN A COURT OF COMPETENT JURISDICTION TO RECOVER ECONOMIC AND**
24 **NONECONOMIC DAMAGES RESULTING FROM A VIOLATION OF SUBSECTION (A) OF**
25 **THIS SECTION.**

26 (2) **AN INDIVIDUAL WHO BRINGS AN ACTION UNDER THIS**
27 **SUBSECTION AND WHO IS AWARDED DAMAGES MAY ALSO SEEK REASONABLE**
28 **ATTORNEY’S FEES.**

29 10-402.1.

(A) UNLESS AUTHORIZED BY LAW, A PERSON MAY NOT DAMAGE, DESECRATE, MUTILATE, STORE, TAMPER WITH, TRAFFIC, OR TRANSPORT HUMAN REMAINS.

(B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO:

(I) FOR A FIRST VIOLATION, IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 10 YEARS OR A FINE OF AT LEAST \$20,000 OR BOTH; AND

(II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING 15 YEARS OR A FINE OF AT LEAST \$30,000 OR BOTH.

(2) (I) IN THIS PARAGRAPH, "DEPARTMENT" HAS THE MEANING STATED IN § 2-109 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) A DEPARTMENT MAY DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO AN APPLICANT OR REVOKE THE OCCUPATIONAL LICENSE OR CERTIFICATE OF A HOLDER IF THE APPLICANT OR HOLDER WAS CONVICTED OF A VIOLATION OF THIS SECTION.

(C) (1) A PERSON WHO VIOLATES THIS SECTION SHALL PAY THE OWNER OF THE PROPERTY OR THE OWNER OF THE CEMETERY FOR THE RESTORATION OF ANY DAMAGED OR DEFACED REAL OR PERSONAL PROPERTY IN A CEMETERY.

(2) (I) A FAMILY MEMBER OR DESCENDANT MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER ECONOMIC AND NONECONOMIC DAMAGES RESULTING FROM A VIOLATION OF THIS SECTION.

(II) AN INDIVIDUAL WHO BRINGS AN ACTION UNDER THIS PARAGRAPH AND WHO IS AWARDED DAMAGES MAY ALSO SEEK REASONABLE ATTORNEY'S FEES.

10-404.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, deface, or remove:

(i) an associated funerary object or another structure placed in a cemetery; or

(ii) a building, wall, fence, railing, or other work, for the use, protection, or ornamentation of a cemetery.

(2) The provisions of paragraph (1) of this subsection do not prohibit the removal of a funerary object or a building, wall, fence, railing, or other object installed for the use, protection, or ornamentation of a cemetery or burial site, for the purpose of repair or replacement, either at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery or burial site.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, or remove a tree, plant, [or] shrub, **OR OTHER LANDSCAPING** in a cemetery.

(2) The provisions of paragraph (1) of this subsection do not prohibit normal maintenance of a cemetery or burial site, including trimming of trees and shrubs, removal of weeds or noxious growths, grass cutting, or other routine care and maintenance.

(c) A person may not engage in [indecent or disorderly conduct] **MALICIOUS, ABUSIVE, OR DISORDERLY ACTIVITIES** in a cemetery.

(d) **(1)** A person who violates this section is guilty of a [misdemeanor] **FELONY** and on conviction is subject to:

[(1)] (I) for a **FIRST** violation [of subsection (a) of this section], imprisonment **FOR NOT LESS THAN 5 YEARS AND** not exceeding **[5] 10** years or a fine [not exceeding \$10,000] **OF AT LEAST \$20,000** or both; and

[(2)] (II) for a **SUBSEQUENT** violation [of subsection (b) or (c) of this section], imprisonment **FOR NOT LESS THAN 10 YEARS AND** not exceeding **[2] 15** years or a fine [not exceeding \$500] **OF AT LEAST \$30,000** or both.

(2) (I) IN THIS PARAGRAPH, "DEPARTMENT" HAS THE MEANING STATED IN § 2-109 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) A DEPARTMENT MAY DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO AN APPLICANT OR REVOKE THE OCCUPATIONAL LICENSE OR CERTIFICATE OF A HOLDER IF THE APPLICANT OR HOLDER IS CONVICTED OF A VIOLATION OF THIS SECTION.

(e) **(1)** A person who violates this section shall pay for the restoration of any damaged or defaced real or personal property in a cemetery to the owner of the property or the owner of the cemetery.

(2) (I) A FAMILY MEMBER OR DESCENDANT WHO SUFFERS DAMAGES AS A RESULT OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL

ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER ECONOMIC AND NONECONOMIC DAMAGES.

(II) AN INDIVIDUAL WHO BRINGS AN ACTION UNDER THIS PARAGRAPH AND WHO IS AWARDED DAMAGES MAY ALSO SEEK REASONABLE ATTORNEY'S FEES.

(f) This section does not prohibit the removal of human remains or a funerary object from an abandoned cemetery if:

(1) the removal is authorized in writing by the State's Attorney of the county in which the cemetery containing the human remains or funerary object is located; and

(2) the human remains or funerary object are placed in an accessible place in a permanent cemetery.

10-627.

(A) A PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE PET REMAINS FROM A CEMETERY WITHOUT THE PERMISSION OF THE OWNER OF THE PET OR OF THE CEMETERY.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT DAMAGE, DESECRATE, MUTILATE, STORE, TAMPER WITH, TRAFFIC, OR TRANSPORT PET REMAINS IN ANY WAY.

(2) IT IS NOT A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IF THE ACTION IS FOR THE PURPOSES OF BURYING, CREMATING, OR OTHERWISE PRESERVING THE PET FOR THE BENEFIT OF THE OWNER.

(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO:

(I) FOR A FIRST VIOLATION, IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 10 YEARS OR A FINE OF AT LEAST \$20,000 OR BOTH; OR

(II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING 15 YEARS OR A FINE OF AT LEAST \$30,000 OR BOTH.

(2) (I) IN THIS PARAGRAPH, "DEPARTMENT" HAS THE MEANING STATED IN § 2-109 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) A DEPARTMENT MAY DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO AN APPLICANT OR REVOKE THE OCCUPATIONAL LICENSE OR CERTIFICATE OF A HOLDER IF THE APPLICANT OR HOLDER IS CONVICTED OF A VIOLATION OF THIS SECTION.

(D) A PERSON WHO VIOLATES THIS SECTION SHALL PAY THE PROPERTY OR THE OWNER OF THE CEMETERY FOR THE RESTORATION OF ANY DAMAGED OR DEFACED REAL OR PERSONAL PROPERTY IN A CEMETERY TO THE OWNER.

Article – Criminal Procedure

1–209.

(a) (1) In this section, “department” means:

- (i) the Department of Agriculture;
- (ii) the Department of the Environment;
- (iii) the Maryland Department of Health;
- (iv) the Department of Human Services;
- (v) the Maryland Department of Labor; or
- (vi) the Department of Public Safety and Correctional Services.

(2) “Department” includes any unit of a department specified in paragraph (1) of this subsection.

(b) This section does not apply to:

(1) a person who was previously convicted of a crime of violence, as defined in § 14–101 of the Criminal Law Article;

(2) A PERSON WHO WAS PREVIOUSLY CONVICTED OF A CRIME RELATING TO HUMAN REMAINS UNDER TITLE 10, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE; OR

(3) A PERSON PREVIOUSLY CONVICTED OF A CRIME RELATING TO PET REMAINS UNDER § 10–627 OF THE CRIMINAL LAW ARTICLE.

(c) It is the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.

(d) Except as provided in subsection (f) of this section, a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:

(1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or

(2) the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

(e) In making the determination under subsection (d) of this section, the department shall consider:

(1) the policy of the State expressed in subsection (c) of this section;

(2) the specific duties and responsibilities required of a licensee or certificate holder;

(3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate;

(4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;

(5) the seriousness of the offense for which the applicant was convicted;

(6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and

(7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

(f) (1) This subsection does not apply to a conviction of a crime for which registration on the sex offender registry is required under Title 11, Subtitle 7 of this article.

(2) If a period of 7 years or more has passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation, as defined in § 10-101 of this article, during that time, a department may not deny an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of the crime.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2025.