

HOUSE BILL 1003

E1, P1

5lr1984
CF SB 624

By: **Delegates Simmons and Young**

Introduced and read first time: January 31, 2025

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Relocation of Human Remains – Authorization Process**

3 FOR the purpose of requiring a person seeking to relocate human remains from a burial
4 site to apply for approval for relocation with the Office of Cemetery Oversight before
5 seeking authorization from a State’s Attorney; establishing requirements and
6 procedures for an application for authorization to relocate human remains; requiring
7 the Office of Cemetery Oversight to delay authorization for relocation of human
8 remains under certain circumstances; requiring certain fines and fees to be remitted
9 to the Cemetery Oversight Fund; and generally relating to the removal of human
10 remains.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 10–402
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2024 Supplement)

16 BY adding to
17 Article – Criminal Law
18 Section 10–402.1
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2024 Supplement)

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

23 **Article – Criminal Law**

24 10–402.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) Except as provided in subsections (b) and (f) of this section, a person may not remove or attempt to remove human remains from a burial site.

(b) Subject to subsection (c) of this section, the State's Attorney for a county may authorize in writing the removal of human remains from a burial site in the State's Attorney's jurisdiction:

(1) to ascertain the cause of death of the person whose remains are to be removed;

(2) to determine whether the human remains were interred erroneously;

(3) for the purpose of reburial; or

(4) for medical or scientific examination or study allowed by law.

(c) (1) Except as provided in paragraph [(4)] **(2)** of this subsection, the State's Attorney for a county shall require a person who requests authorization to relocate permanently human remains from a burial site to [publish a notice of the proposed relocation in a newspaper of general circulation in the county where the burial site is located] **PROVIDE DOCUMENTATION OF APPROVAL OF THE RELOCATION BY THE OFFICE OF CEMETERY OVERSIGHT.**

(2) [The notice shall be published in the newspaper one time.

(3) The notice shall contain:

(i) a statement that authorization from the State's Attorney is being requested to remove human remains from a burial site;

(ii) the purpose for which the authorization is being requested;

(iii) the location of the burial site, including the tax map and parcel number or liber and folio number; and

(iv) all known pertinent information concerning the burial site, including the names of the persons whose human remains are interred in the burial site, if known.

(4)] (i) The State's Attorney may authorize the temporary relocation of human remains from a burial site for good cause, notwithstanding the [notice] requirements of this subsection.

(ii) If the person requesting the authorization subsequently intends to relocate the remains permanently, the person promptly shall [publish notice] **REQUEST**

1 **APPROVAL FROM THE OFFICE OF CEMETERY OVERSIGHT** as required under [this
2 subsection] **§ 10-402.1 OF THIS SUBTITLE.**

3 [(5) The person requesting the authorization from the State's Attorney shall
4 pay the cost of publishing the notice.

5 (6) The State's Attorney may authorize the removal of the human remains
6 from the burial site after:

7 (i) receiving proof of the publication required under paragraph (1)
8 of this subsection; and

9 (ii) 15 days after the date of publication.

10 (7)] (3) This subsection may not be construed to delay, prohibit, or
11 otherwise limit the State's Attorney's authorization for the removal of human remains from
12 a burial site.

13 [(8)] (4) For a known, but not necessarily documented, unmarked burial
14 site, the person requesting authorization for the removal of human remains from the burial
15 site has the burden of proving by [archaeological excavation or another acceptable method]
16 **METHODS APPROVED BY THE OFFICE OF CEMETERY OVERSIGHT** the precise location
17 and boundaries of the burial site.

18 (d) (1) Any human remains that are removed from a burial site under this
19 section shall be reinterred in:

20 (i) 1. a permanent cemetery that provides perpetual care; or

21 2. a place other than a permanent cemetery with the
22 agreement of a person in interest as defined under § 14-121(a)(4) of the Real Property
23 Article; and

24 (ii) in the presence of:

25 1. a mortician, professional cemeterian, or other individual
26 qualified in the interment of human remains;

27 2. a minister, priest, or other religious leader; or

28 3. a trained anthropologist or archaeologist.

29 (2) The location of the final disposition and treatment of human remains
30 that are removed from a burial site under this section shall be entered into the local burial
31 sites inventory or, if no local burial sites inventory exists, into a record or inventory deemed
32 appropriate by the State's Attorney or the Maryland Historical Trust.

(e) This section may not be construed to:

(1) preempt the need for a permit required by the Maryland Department of Health under § 4–215 of the Health – General Article to remove human remains from a burial site; or

(2) interfere with the normal operation and maintenance of a cemetery, as long as the operation and maintenance of the cemetery are performed in accordance with State law.

(f) (1) Subject to paragraphs (2) and (3) of this subsection, human remains or the remains of a decedent after cremation, as defined in § 5–508 of the Health – General Article, may be removed from a burial site within a permanent cemetery and reinterred in:

(i) the same burial site; or

(ii) another burial site within the boundary of the same permanent cemetery.

(2) The following persons, in the order of priority stated, may arrange for a reinterment of remains under paragraph (1) of this section:

(i) the surviving spouse or domestic partner of the decedent;

(ii) an adult child of the decedent;

(iii) a parent of the decedent;

(iv) an adult brother or sister of the decedent;

(v) a person acting as a representative of the decedent under a signed authorization of the decedent; or

(vi) the guardian of the person of the decedent at the time of the decedent's death, if one has been appointed.

(3) (i) The reinterment under paragraph (1) of this subsection may be done without the need for obtaining the authorization of the State's Attorney under subsection (b) of this section or [providing the notice required under subsection (c) of this section] **FROM THE OFFICE OF CEMETERY OVERSIGHT UNDER § 10–402.1 OF THIS SUBTITLE.**

(ii) 1. A person who arranges for the reinterment of remains within a permanent cemetery under paragraph (1)(ii) of this subsection, within 30 days after the reinterment, shall publish a notice of the reinterment in a newspaper of general circulation in the county where the permanent cemetery is located.

2. The notice shall be published in the newspaper one time.

3. The notice shall contain:

A. a statement that the reinterment took place;

B. the reason for the reinterment;

C. the location of the burial site from which remains have been removed, including the tax map and parcel number or liber and folio number;

D. the location of the burial site in which the remains have been reinterred, including the tax map and parcel number or liber and folio number; and

E. all known pertinent information concerning the burial sites, including the names of the persons whose cremated remains or human remains are interred in the burial sites, if known.

(iii) Within 45 days after the reinterment, a person who arranges for a reinterment of remains under paragraph (1)(ii) of this subsection shall provide a copy of the notice required under this paragraph to the Office of Cemetery Oversight.

(4) The location of a reinterment of remains under paragraph (1) of this subsection shall be entered into the inventory of the local burial sites or, if no inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust.

(g) **(1)** A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both.

(2) NOTWITHSTANDING THE PROVISIONS OF §§ 7-506 AND 7-507 OF THE COURTS ARTICLE, ALL FINES COLLECTED UNDER THIS SUBSECTION SHALL BE REMITTED TO THE CEMETERY OVERSIGHT FUND UNDER § 5-205 OF THE BUSINESS REGULATION ARTICLE.

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

10-402.1.

(A) IN THIS SECTION, "OFFICE" MEANS THE OFFICE OF CEMETERY OVERSIGHT.

(B) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, BEFORE SEEKING AUTHORIZATION FROM A STATE'S ATTORNEY TO PERMANENTLY

1 RELOCATE HUMAN REMAINS UNDER § 10-402 OF THIS SUBTITLE, THE PERSON
2 SEEKING TO PERMANENTLY RELOCATE THE REMAINS SHALL:

3 (1) PROMINENTLY POST NOTICE OF THE REQUEST AT THE BURIAL
4 SITE IN A FORM APPROVED BY THE OFFICE;

5 (2) PUBLISH NOTICE OF THE PROPOSED RELOCATION IN A
6 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE BURIAL SITE
7 FROM WHICH THE HUMAN REMAINS ARE BEING RELOCATED IS CONTAINING:

8 (I) A STATEMENT THAT AN APPLICATION TO RELOCATE HUMAN
9 REMAINS FROM A BURIAL SITE HAS BEEN FILED WITH THE OFFICE;

10 (II) THE REASON FOR THE RELOCATION;

11 (III) THE LOCATION OF THE EXISTING BURIAL SITE, INCLUDING
12 THE TAX MAP AND PARCEL NUMBER, OR LIBER AND FOLIO NUMBER OF THE SITE;

13 (IV) ALL KNOWN PERTINENT INFORMATION CONCERNING THE
14 BURIAL SITE, INCLUDING THE NAMES OF THE INDIVIDUALS WHOSE HUMAN REMAINS
15 ARE INTERRED IN THE BURIAL SITE; AND

16 (V) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES;
17 AND

18 (3) PROVIDE NOTICE OF THE INTENT TO PERMANENTLY RELOCATE
19 THE HUMAN REMAINS TO POTENTIAL DESCENDANTS IN A MANNER DETERMINED BY
20 THE OFFICE.

21 (C) A PERSON REQUESTING AUTHORIZATION UNDER THIS SECTION SHALL
22 PAY THE COST OF PUBLISHING NOTICE REQUIRED UNDER SUBSECTION (B)(2) OF
23 THIS SECTION.

24 (D) (1) NOT EARLIER THAN 30 DAYS AFTER PROVIDING NOTICE IN
25 ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, A PERSON SEEKING TO
26 RELOCATE HUMAN REMAINS FROM A BURIAL SITE SHALL SUBMIT AN APPLICATION
27 FOR AUTHORIZATION TO RELOCATE HUMAN REMAINS ON A FORM DEVELOPED BY
28 THE OFFICE.

29 (2) THE OFFICE MAY APPROVE A REQUEST TO PERMANENTLY
30 RELOCATE HUMAN REMAINS IF:

1 **(I) AT LEAST 30 DAYS HAVE PASSED SINCE THE APPLICANT**
2 **PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; AND**

3 **(II) THE APPLICANT PAYS AN APPLICATION FEE SET BY THE**
4 **OFFICE.**

5 **(E) AN APPLICANT WHO IS AN INDIVIDUAL DESCRIBED IN § 10-402(F)(2) OF**
6 **THIS SUBTITLE, OR AN ADULT DIRECT DESCENDANT OF THE DECEDENT, IS NOT**
7 **REQUIRED TO PROMINENTLY POST NOTICE AT A BURIAL SITE OR PROVIDE NOTICE**
8 **TO POTENTIAL DESCENDANTS.**

9 **(F) (1) ON WRITTEN REQUEST BY ANY PERSON MADE WITHIN 30 DAYS**
10 **AFTER THE PUBLICATION AND POSTING OF NOTICE REQUIRED UNDER SUBSECTION**
11 **(B) OF THIS SECTION, THE OFFICE SHALL REQUIRE THE APPLICANT SEEKING**
12 **AUTHORIZATION TO HOLD AN INFORMATIONAL MEETING REGARDING THE**
13 **APPLICATION.**

14 **(2) THE INFORMATIONAL MEETING REQUIRED UNDER THIS**
15 **SUBSECTION MAY BE CANCELED IF EACH PERSON WHO MADE TIMELY REQUESTS**
16 **UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHDRAWS THE REQUEST BEFORE**
17 **THE MEETING.**

18 **(G) (1) IF AN INDIVIDUAL DESCRIBED IN § 10-402(F)(2) OF THIS**
19 **SUBTITLE, OR AN ADULT DIRECT DESCENDANT OF THE DECEDENT, REQUESTS TO**
20 **REINTER HUMAN REMAINS FOR WHICH AN APPLICATION TO RELOCATE HAS BEEN**
21 **FILED, THE OFFICE OF CEMETERY OVERSIGHT SHALL DELAY THE REINTERMENT**
22 **PROCESS FOR 90 DAYS.**

23 **(2) DURING THE 90 DAYS DESCRIBED IN PARAGRAPH (1) OF THIS**
24 **SUBSECTION, THE OFFICE SHALL RESOLVE THE REQUEST FROM AN INDIVIDUAL**
25 **DESCRIBED IN § 10-402(F)(2) OF THIS SUBTITLE, OR AN ADULT DIRECT**
26 **DESCENDANT OF THE DECEDENT.**

27 **(3) THE OFFICE MAY REQUIRE EVIDENCE OF THE RELATIONSHIP TO**
28 **THE DECEDENT BEFORE DELAYING A REINTERMENT UNDER PARAGRAPH (1) OF**
29 **THIS SUBSECTION.**

30 **(H) ALL FEES COLLECTED UNDER THIS SECTION SHALL BE REMITTED TO**
31 **THE CEMETERY OVERSIGHT FUND UNDER § 5-205 OF THE BUSINESS REGULATION**
32 **ARTICLE.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2026,
34 the Maryland Department of Health shall, in consultation with the Office of Cemetery

1 Oversight, update regulations regarding disinterment and reinterment to carry out the
2 duties of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.