

SENATE BILL 105

N1, P1

4lr1412

(PRE-FILED)

By: **Senator Ellis**

Requested: November 1, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Burial Sites of Enslaved Persons – Protection and Access**
3 **(Emancipation for the Maryland Deceased Enslaved Act)**

4 FOR the purpose of requiring an owner of land that encompasses any part of a former
5 plantation to identify and allow visitation to certain burial sites of enslaved persons
6 under certain circumstances; prohibiting construction of any structure on certain
7 burial sites; establishing the Office of Burial Sites of the Maryland Enslaved; and
8 generally relating to deceased enslaved persons.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 14–121
12 Annotated Code of Maryland
13 (2023 Replacement Volume)

14 BY adding to
15 Article – State Government
16 Section 9–3801 through 9–3804 to be under the new subtitle “Subtitle 38. Office of
17 Burial Sites of the Maryland Enslaved”
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2023 Supplement)

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

22 **Article – Real Property**

23 14–121.

24 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) (i) “Burial site” means any 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 rite or ceremony of any culture, religion, or group.

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

(3) “Cultural affiliation” means a relationship of shared group identity that can be reasonably traced historically between a present-day group, tribe, band, or clan and an identifiable earlier group.

(4) “Person in interest” means a person who:

(i) Is related by blood or marriage to the person interred in a burial site;

(ii) Is a domestic partner, as defined in § 1-101 of the Health – General Article, of a person interred in a burial site;

(iii) Has a cultural affiliation with the person interred in a burial site; [or]

(iv) Has an interest in a burial site that the Office of the State’s Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such a board does not exist, the Maryland Historical Trust; OR

(V) HAS LEARNED THROUGH ORAL TRADITION OF THE PERSON’S RELATION TO AN ENSLAVED PERSON INTERRED IN A BURIAL SITE.

(5) “PLANTATION” MEANS A LARGE AGRICULTURAL ESTATE OR FARM AS DESIGNATED BY THE MARYLAND HISTORICAL TRUST WHERE ENSLAVED PERSONS WERE FORCED TO WORK FOR THE PROFIT OF THE OWNER OF THE PROPERTY.

(b) **(1)** Any person in interest may request the owner of a burial site or of the land encompassing a burial site that has been documented or recognized as a burial site by the public or any person in interest to grant reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site.

(2) (I) AN OWNER OF LAND THAT ENCOMPASSES ANY PART OF A FORMER PLANTATION SHALL:

1. TAKE REASONABLE STEPS, IN CONSULTATION WITH THE MARYLAND HISTORICAL TRUST AND THE OFFICE OF THE BURIAL SITES OF THE MARYLAND ENSLAVED, TO IDENTIFY WHETHER ANY BURIAL SITES OF ENSLAVED PERSONS EXIST ON THE LAND;

(II) THE OWNER MAY LIMIT VISITATION UNDER THIS PARAGRAPH TO ONE WEEKEND DAY PER MONTH AND TO THE OBSERVANCE OF DR. MARTIN LUTHER KING, JR.'S BIRTHDAY AND THE JUNETEENTH NATIONAL INDEPENDENCE DAY.

(c) (1) A person requesting access to a burial site under subsection (b) or (d) of this section may execute an agreement with the owner of the burial site or of the land encompassing the burial site using a form similar to the form below:

I hereby grant the person named below permission to enter my property, subject to the terms of the agreement, on the following dates:

(Landowner)

In return for the privilege of entering on the private property for the purpose of restoring, maintaining, or viewing the burial site or transporting human remains to the burial site, I agree to adhere to every law, observe every safety precaution and practice, take every precaution against fire, and assume all responsibility and liability for my person and my property, while on the landowner's property.

(2) If the owner of the burial site or of the land encompassing the burial site enters into an agreement under paragraph (1) of this subsection, the owner shall grant access to the burial site in accordance with the terms of the agreement signed under paragraph (1) of this subsection.

(d) In addition to the provisions of subsection (b) of this section, if burials are still taking place at a burial site, any person who is related by blood or marriage, heir, appointed representative, or any other person in interest may request the owner of the land encompassing the burial site to grant reasonable access to the burial site for the purpose of transporting human remains to the burial site to inter the remains of a person for whose burial the site is dedicated, if access has not been provided in a covenant or deed of record describing the metes and bounds of the burial site.

(e) Except for willful or malicious acts or omissions, the owner of a burial site or of the land encompassing a burial site who allows persons to enter or go on the land for the purposes provided in subsections (b) and (d) of this section is not liable for damages in a civil action to a person who enters on the land for injury to person or property.

(f) A person who enters land for the purposes provided in subsections (b) and (d) of this section shall be responsible for ensuring that the person's conduct does not damage the land, the cemetery, or the gravesites, and shall be liable to the property owner for any damage caused as a result of the person's access.

(g) (1) An owner of a burial site, a person who is related by blood or marriage to the person interred in a burial site, heir, appointed representative, or any other person in interest, or any other person may report the location of a burial site to the supervisor of assessments for a county, together with supporting documentation concerning the location and nature of the burial site.

(2) The supervisor of assessments for a county may note the presence of a burial site on a parcel on the county tax maps maintained under § 2-213 of the Tax – Property Article.

(h) Nothing in this section may be construed to interfere with the normal operation and maintenance of a public or private cemetery being operated in accordance with State law.

Article – State Government

SUBTITLE 38. OFFICE OF BURIAL SITES OF THE MARYLAND ENSLAVED.

9-3801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE OFFICE.

(C) “OFFICE” MEANS THE OFFICE OF BURIAL SITES OF THE MARYLAND

1 ENSLAVED.

2 9-3802.

3 (A) THERE IS AN OFFICE OF BURIAL SITES OF THE MARYLAND ENSLAVED.

4 (B) THE HEADQUARTERS OF THE OFFICE SHALL BE LOCATED IN THE
5 BANNEKER-DOUGLASS MUSEUM IN ANNAPOLIS.

6 (C) THE PURPOSE OF THE OFFICE IS TO IDENTIFY, STUDY, AND PRESERVE
7 THE BURIAL SITES OF ENSLAVED PERSONS ON FORMER PLANTATIONS WITHIN THE
8 STATE.

9 (D) THE OFFICE SHALL:

10 (1) STUDY THE HISTORY OF INTERMENT OF ENSLAVED PERSONS
11 WITHIN THE STATE;

12 (2) PROVIDE TRAINING, EDUCATION, AND OUTREACH SERVICES FOR
13 THE BENEFIT OF THE PUBLIC; AND

14 (3) MAKE POLICY RECOMMENDATIONS ABOUT PRESERVING THE
15 BURIAL SITES OF ENSLAVED PERSONS LOCATED WITHIN THE STATE.

16 9-3803.

17 (A) (1) THE GOVERNOR SHALL APPOINT AN EXECUTIVE DIRECTOR OF
18 THE OFFICE, WITH THE ADVICE AND CONSENT OF THE SENATE.

19 (2) THE EXECUTIVE DIRECTOR SHALL HIRE AN EXECUTIVE
20 ASSOCIATE AND ANY STAFF NECESSARY TO FULFILL THE OFFICE'S PURPOSE.

21 (B) FOR FISCAL YEAR 2026 AND EACH FISCAL YEAR THEREAFTER, THE
22 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF
23 \$2,500,000 FOR:

24 (1) SALARIES OF THE EXECUTIVE DIRECTOR, THE EXECUTIVE
25 ASSOCIATE, AND STAFF; AND

26 (2) THE OFFICE'S TRAINING, EDUCATION, AND OUTREACH SERVICES
27 FOR THE BENEFIT OF THE PUBLIC.

28 9-3804.

1 **ON OR BEFORE JANUARY 1, 2026, AND EACH JANUARY 1 THEREAFTER, THE**
2 **OFFICE SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF**
3 **THIS ARTICLE, THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE OFFICE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2024.