

1                                   A bill to be entitled  
 2           An act relating to criminal offenses involving tombs  
 3           and memorials; amending s. 872.02, F.S.; creating and  
 4           revising definitions; making technical changes;  
 5           prohibiting the excavation, exposition, movement,  
 6           removal, or other disturbance of the contents of a  
 7           tomb or memorial; providing criminal penalties;  
 8           providing exceptions to the prohibition against  
 9           disturbance of the contents of a tomb or memorial for  
 10          ceteries exempted from certain regulation; providing  
 11          an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

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 15           Section 1. Section 872.02, Florida Statutes, is amended to  
 16          read:

17           872.02 Injuring or removing tomb or memorial ~~monument~~;  
 18          disturbing contents of ~~grave or~~ tomb; penalties; exceptions.—

19           (1) For purposes of this section, the term:

20           (a) "Exempt cemetery" means a cemetery that is exempt from  
 21          regulation pursuant to s. 497.260(1).

22           (b) "Legally authorized person" has the same meaning  
 23          provided in s. 497.005.

24           (c) "Memorial" means a structure or thing placed or  
 25          designed for a memorial of the dead. The term includes a

26 monument or gravestone.

27 (d) "Operator" means an owner, officer, employee, or  
 28 agent.

29 (e) "Tomb" includes a grave space, mausoleum, columbarium,  
 30 or belowground crypt, as those terms are defined in s. 497.005,  
 31 and also includes a burial mound or an earthen or shell monument  
 32 containing human skeletal remains or associated burial  
 33 artifacts.

34 (2) A person commits a felony of the third degree,  
 35 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 36 if the person ~~who~~ willfully and knowingly:

37 (a) Destroys, mutilates, defaces, injures, or removes:

38 1. ~~A any tomb or memorial; monument, gravestone, burial~~  
 39 ~~mound, earthen or shell monument containing human skeletal~~  
 40 ~~remains or associated burial artifacts, or other structure or~~  
 41 ~~thing placed or designed for a memorial of the dead, or~~

42 2. ~~A any fence, railing, curb, or other thing intended~~  
 43 for:

44 a. The protection or ornamentation of ~~a any tomb or~~  
 45 ~~memorial; monument, gravestone, burial mound, earthen or shell~~  
 46 ~~monument containing human skeletal remains or associated burial~~  
 47 ~~artifacts, or other structure before mentioned, or~~

48 b. ~~An for any enclosure for the burial of the dead.~~  
 49 willfully

50 (b) Destroys, mutilates, removes, cuts, breaks, or injures

51 a any tree, shrub, or plant placed or being within an any such  
52 enclosure for the burial of the dead, ~~commits a felony of the~~  
53 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~  
54 ~~or s. 775.084.~~

55 (3)(2) A person who willfully and knowingly excavates,  
56 exposes, moves, removes, or otherwise disturbs the contents of a  
57 tomb ~~or grave~~ commits a felony of the second degree, punishable  
58 as provided in s. 775.082, s. 775.083, or s. 775.084.

59 (4)(3) This section shall not apply to:

60 (a) A ~~any~~ person acting under the direction or authority of  
61 the Division of Historical Resources of the Department of State,  
62 to cemeteries operating under chapter 497, or to a any person  
63 otherwise authorized by law to commit an act ~~remove or disturb a~~  
64 ~~tomb, monument, gravestone, burial mound, or similar structure,~~  
65 ~~or its contents,~~ as described in subsection (2)(1) or subsection  
66 (3).

67 (b) An operator of an exempt cemetery who is conducting  
68 ordinary maintenance, if such maintenance does not relocate a  
69 memorial, tomb, or the contents of a tomb to another plot or  
70 site.

71 (c) An operator of an exempt cemetery who relocates a  
72 memorial, a tomb, or the contents of a tomb to another plot or  
73 site if:

74 1. Before the relocation, the operator obtains written  
75 authorization for the relocation from a legally authorized

76 person or a court order authorizing the relocation. A written  
77 and signed contract between the operator and a legally  
78 authorized person permitting relocation may serve as a written  
79 authorization under this subparagraph;

80 2. A natural disaster causes damage to the exempt cemetery  
81 which necessitates the relocation; or

82 3. More than 75 years have elapsed since the interment,  
83 entombment, or inurnment at the exempt cemetery and the operator  
84 of the exempt cemetery publishes a public notice, once a week  
85 for 4 consecutive weeks, in a newspaper of general circulation  
86 within the county in which the exempt cemetery is located.

87 a. The public notice must contain the name of the exempt  
88 cemetery; the name, address, and telephone number of the  
89 representative of the exempt cemetery with whom written  
90 objections may be filed; the reason and necessity for the  
91 relocation; the name of the deceased person interred, entombed,  
92 or inurned; the date of initial interment, entombment, or  
93 inurnment; the proposed site of relocation; and the proposed  
94 date of relocation. The proposed date of relocation may not be  
95 less than 30 days from the last date of publication.

96 b. If a written objection to the relocation:

97 (I) Is not received from a legally authorized person  
98 within 30 days after the last date of publication of the public  
99 notice, the exempt cemetery may proceed with the relocation.

100 (II) Is received from a legally authorized person, a

101 public hearing shall be held before the city council if the  
102 exempt cemetery is located in a municipality or before the  
103 applicable county commission if the exempt cemetery is not  
104 located within a municipality. Interested parties shall have the  
105 opportunity to be heard at the hearing in person or by counsel  
106 and to introduce testimony. The council or commission shall  
107 determine whether to grant or deny the request for the  
108 relocation. If granted, the exempt cemetery may proceed with the  
109 relocation.

110 ~~(4) For purposes of this section, the term "tomb" includes~~  
111 ~~any mausoleum, columbarium, or belowground crypt.~~

112 Section 2. This act shall take effect October 1, 2017.