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CS/CS/CS/HB 107, Engrossed 1

2017 Legislature

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An act relating to criminal offenses involving tombs and memorials; amending s. 872.02, F.S.; providing that a person who willfully and knowingly excavates, exposes, moves, or removes the contents of a grave or tomb commits a felony; revising applicability; authorizing an owner, officer, employee, or agent of specified cemeteries to relocate the contents of a grave or tomb, subject to certain conditions; providing an effective date.

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

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

872.02 Injuring or removing tomb or monument; disturbing contents of grave or tomb; penalties.—

(1) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if he or she:

(a) ~~who~~ Willfully and knowingly destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the

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CS/CS/CS/HB 107, Engrossed 1

2017 Legislature

26 | dead, or any fence, railing, curb, or other thing intended for
 27 | the protection or ornamentation of any tomb, monument,
 28 | gravestone, burial mound, earthen or shell monument containing
 29 | human skeletal remains or associated burial artifacts, or other
 30 | structure before mentioned, or for any enclosure for the burial
 31 | of the dead;~~7~~ or

32 | **(b)** Willfully destroys, mutilates, removes, cuts, breaks,
 33 | or injures any tree, shrub, or plant placed or being within any
 34 | such enclosure, except for a person performing routine
 35 | maintenance and upkeep ~~commits a felony of the third degree,~~
 36 | ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

37 | (2) A person who willfully and knowingly excavates,
 38 | exposes, moves, removes, or otherwise disturbs the contents of a
 39 | ~~tomb or~~ grave or tomb commits a felony of the second degree,
 40 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

41 | (3) This section does ~~shall~~ not apply to any person acting
 42 | under the direction or authority of the Division of Historical
 43 | Resources of the Department of State, to cemeteries operating
 44 | under chapter 497, any cemeteries removing or relocating the
 45 | contents of a grave or tomb as a response to a natural disaster,
 46 | or to any person otherwise authorized by law to remove or
 47 | disturb a tomb, monument, gravestone, burial mound, or similar
 48 | structure, or its contents, as described in subsection (1).

49 | (4) For purposes of this section, the term "tomb" includes
 50 | any mausoleum, columbarium, or belowground crypt.

ENROLLED

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2017 Legislature

51 (5) Notwithstanding subsections (1) and (2), an owner,
 52 officer, employee, or agent of a cemetery exempt from regulation
 53 pursuant to s. 497.260 may relocate the contents of a grave or
 54 tomb:

55 (a) After receiving a written authorization from a legally
 56 authorized person as defined in s. 497.005(43); or

57 (b) After public notice is posted as required in this
 58 paragraph, if a legally authorized person cannot be located
 59 after conducting a reasonable search or after 75 years or more
 60 have elapsed since the date of entombment, interment, or
 61 inurnment. The public notice must be published once a week for 4
 62 consecutive weeks in a newspaper of general circulation in the
 63 county where the cemetery is located. The public notice must
 64 contain the name of the cemetery; the name, address, and
 65 telephone number of the cemetery representative with whom
 66 objections may be filed; the reason for relocation of the
 67 contents of the graves or tombs; the names of the human remains
 68 to be relocated; the approximate date of the initial entombment,
 69 interment, or inurnment; the proposed site of relocation; and
 70 the proposed date of relocation. The proposed date of relocation
 71 may not be less than 30 days from last date of publication. If
 72 no objection from a legally authorized person is received within
 73 30 days from the last date of publication of the public notice,
 74 the cemetery may proceed with relocation.

75 (6) If a legally authorized person refuses to sign a

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76 | written authorization, as provided in (5) (a), or if a legally
77 | authorized person objects, as provided in (5) (b), a public
78 | hearing shall be held before the county commission of the county
79 | where the cemetery is located, or the city council, if the
80 | cemetery is located in a municipality, and the county commission
81 | or the city council shall have the authority to grant a request
82 | for relocation of the contents of such graves or tombs.

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

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