



156066

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2017	.	
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The Committee on Criminal Justice (Simmons) recommended the following:

1           **Senate Substitute for Amendment (129514) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 872.02, Florida Statutes, is amended to  
7 read

8           872.02 Injuring or removing tomb or monument; disturbing  
9 contents of grave or tomb; penalties.—

10           (1) A person commits a felony of the third degree,



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11 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
12 if he or she:

13       (a) ~~who~~ Willfully and knowingly destroys, mutilates,  
14 defaces, injures, or removes any tomb, monument, gravestone,  
15 burial mound, earthen or shell monument containing human  
16 skeletal remains or associated burial artifacts, or other  
17 approved structure or approved thing placed or designed for a  
18 memorial of the dead, or any fence, railing, curb, or other  
19 thing intended for the protection or ornamentation of any tomb,  
20 monument, gravestone, burial mound, earthen or shell monument  
21 containing human skeletal remains or associated burial  
22 artifacts, or other structure before mentioned, or for any  
23 enclosure for the burial of the dead;7 or

24       (b) Willfully destroys, mutilates, removes, cuts, breaks,  
25 or injures any tree, shrub, or plant placed or being within any  
26 such enclosure, ~~commits a felony of the third degree, punishable~~  
27 ~~as provided in s. 775.082, s. 775.083, or s. 775.084.~~

28  
29 This subsection does not apply to anyone performing routine  
30 maintenance and upkeep.

31       (2) A person who willfully and knowingly excavates,  
32 exposes, moves, removes, or otherwise disturbs the contents of a  
33 tomb or grave commits a felony of the second degree, punishable  
34 as provided in s. 775.082, s. 775.083, or s. 775.084.

35       (3) This section does ~~shall~~ not apply to any person acting  
36 under the direction or authority of the Division of Historical  
37 Resources of the Department of State, to cemeteries operating  
38 under chapter 497, any cemeteries removing or relocating the  
39 contents of a grave or tomb as a response to a natural disaster,



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40 or to any person otherwise authorized by law to remove or  
41 disturb a tomb, monument, gravestone, burial mound, or similar  
42 structure, or its contents, as described in subsection (1).

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

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

49 (a) After receiving a written and signed contract between  
50 the owner and a legally authorized person as defined in s.  
51 497.005(43).

52 (b) If a legally authorized person cannot be located after  
53 a reasonable search or if 75 years or more have elapsed since  
54 the date of entombment, interment, or inurnment, then public  
55 notice must be posted. The public notice must be published once  
56 a week for 4 consecutive weeks in a newspaper of general  
57 circulation in the county where the cemetery is located. The  
58 public notice must contain the name of the cemetery; the name,  
59 address, and telephone number of the cemetery representative  
60 with whom objections may be filed; the reason for relocation of  
61 the contents of the graves or tombs; the names of the human  
62 remains to be relocated; the approximate date of the initial  
63 entombment, interment, or inurnment; the proposed site of  
64 relocation; and the proposed date of relocation. The proposed  
65 date of relocation may not be less than 30 days from last date  
66 of publication.

67 1. If no objection from a legally authorized person is  
68 received within 30 days from the last date of publication of the



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69 public notice, the cemetery may proceed with relocation.

70 2. If an objection is received from a legally authorized  
71 person, a public hearing shall be held before the county  
72 commission of the county where the cemetery is located, or the  
73 city council, if the cemetery is located in a municipality, and  
74 the county commission or the city council shall have sole  
75 authority to grant a request for relocation of the contents of  
76 such graves or tombs.

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

78  
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause  
82 and insert:

83 A bill to be entitled  
84 An act relating to criminal offenses involving tombs  
85 and memorials; amending s. 872.02, F.S.; providing  
86 that a person who willfully and knowingly excavates,  
87 exposes, moves, or removes the contents of a tomb or  
88 grave commits a felony; revising applicability;  
89 authorizing an owner, officer, employee, or agent of  
90 specified cemeteries to relocate the contents of a  
91 grave or tomb, subject to certain conditions;  
92 providing an effective date.