

By Senator Simmons

9-00574A-17

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1                   A bill to be entitled  
2           An act relating to criminal offenses involving tombs  
3           and memorials; amending s. 872.02, F.S.; defining and  
4           redefining terms; making technical changes;  
5           prohibiting the excavation, exposing, 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 that are exempt from certain regulation;  
11          providing an effective date.

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

14  
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 agent.

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

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

36           (a) Destroys, mutilates, defaces, injures, or removes a any  
37 tomb or memorial, monument, gravestone, burial mound, earthen or  
38 shell monument containing human skeletal remains or associated  
39 burial artifacts, or other structure or thing placed or designed  
40 for a memorial of the dead, or a any fence, railing, curb, or  
41 other thing intended for the protection or ornamentation of a  
42 any tomb or memorial; or, monument, gravestone, burial mound,  
43 earthen or shell monument containing human skeletal remains or  
44 associated burial artifacts, or other structure before  
45 mentioned, or for any enclosure for the burial of the dead, or  
46 willfully

47           (b) Destroys, mutilates, removes, cuts, breaks, or injures  
48 a any tree, shrub, or plant placed or being within an any such  
49 enclosure for the burial of the dead, commits a felony of the  
50 third degree, punishable as provided in s. 775.082, s. 775.083,  
51 or s. 775.084.

52           (3)(2) A person who willfully and knowingly excavates,  
53 exposes, moves, removes, or otherwise disturbs the contents of a  
54 tomb or grave commits a felony of the second degree, punishable  
55 as provided in s. 775.082, s. 775.083, or s. 775.084.

56           (4)(3) This section does shall not apply to:

57           (a) A any person acting under the direction or authority of  
58 the Division of Historical Resources of the Department of State,  
59 to cemeteries operating under chapter 497, or to a any person  
60 otherwise authorized by law to commit an act remove or disturb a  
61 tomb, monument, gravestone, burial mound, or similar structure,

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62 ~~or its contents, as~~ described in subsection (2) ~~(1)~~.

63 (b) An operator of an exempt cemetery who is conducting  
64 ordinary maintenance, if such maintenance does not relocate a  
65 memorial, tomb, or contents of a tomb to another plot or site.

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

69 1. Before the relocation, the operator obtains written  
70 authorization for the relocation from a legally authorized  
71 person or a court order authorizing the relocation;

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

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

79 a. The public notice must contain the name of the exempt  
80 cemetery; the name, address, and telephone number of the  
81 representative of the exempt cemetery with whom written  
82 objections may be filed; the reason and necessity for the  
83 relocation; the name of the deceased person entombed, interred,  
84 or inurned; the date of initial entombment, interment, or  
85 inurnment; the proposed site of relocation; and the proposed  
86 date of relocation. The proposed date of relocation may not be  
87 less than 30 days after the last date of publication.

88 b. If a written objection to the relocation:

89 (I) Is not received within 30 days after the last date of  
90 publication of the public notice, the exempt cemetery may

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91 proceed with the relocation.

92 (II) Is received from a legally authorized person, a public  
93 hearing shall be held before the city council if the exempt  
94 cemetery is located in a municipality or before the applicable  
95 county commission if the exempt cemetery is not located within a  
96 municipality. Interested parties shall have the opportunity to  
97 be heard at the hearing in person or by counsel and to introduce  
98 testimony. The council or commission shall determine whether to  
99 grant or deny the request for the relocation. If granted, the  
100 exempt cemetery may proceed with the relocation.

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

103 Section 2. This act shall take effect July 1, 2017.