

By the Committee on Criminal Justice; and Senators Simmons and Baxley

591-02378B-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.; providing
4 that a person who willfully and knowingly excavates,
5 exposes, moves, or removes the contents of a grave or
6 tomb commits a felony; revising applicability;
7 authorizing an owner, officer, employee, or agent of
8 specified cemeteries to relocate the contents of a
9 grave or tomb, subject to certain conditions;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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

16 872.02 Injuring or removing tomb or monument; disturbing
17 contents of grave or tomb; penalties.-

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

21 (a) ~~who~~ Willfully and knowingly destroys, mutilates,
22 defaces, injures, or removes any tomb, monument, gravestone,
23 burial mound, earthen or shell monument containing human
24 skeletal remains or associated burial artifacts, or other
25 approved structure or approved thing placed or designed for a
26 memorial of the dead, or any fence, railing, curb, or other
27 thing intended for the protection or ornamentation of any tomb,
28 monument, gravestone, burial mound, earthen or shell monument
29 containing human skeletal remains or associated burial

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30 artifacts, or other structure before mentioned, or for any
31 enclosure for the burial 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.

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 and signed contract between
56 the owner and a legally authorized person as defined in s.
57 497.005(43).

58 (b) If a legally authorized person cannot be located after

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

75 (6) If a legally authorized person objects, a public
76 hearing shall be held before the county commission of the county
77 where the cemetery is located, or the city council, if the
78 cemetery is located in a municipality, and the county commission
79 or the city council shall have sole authority to grant a request
80 for relocation of the contents of such graves or tombs.

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