

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. ~~, or~~
 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
61 of the Division of Historical Resources of the Department of
62 State, to cemeteries operating under chapter 497, or to a any
63 person otherwise authorized by law to commit an act ~~remove or~~
64 ~~disturb a tomb, monument, gravestone, burial mound, or similar~~
65 ~~structure, or its contents,~~ as described in subsection (2) ~~(1)~~
66 or subsection (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 may be held before the city council if the exempt
102 cemetery is located in a municipality or before the applicable
103 county commission if the exempt cemetery is not located within a
104 municipality. If a public hearing is held, the interested
105 parties shall have the opportunity to be heard at the hearing in
106 person or by counsel and to introduce testimony. The council or
107 commission shall determine whether to grant or deny the request
108 for the relocation. If granted, the exempt cemetery may proceed
109 with the 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.