

CHAPTER 2017-40

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 107

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 dead, or any fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead; or

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

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

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

to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents, as described in subsection (1).

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

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

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

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

(6) If a legally authorized person refuses to sign a written authorization, as provided in (5)(a), or if a legally authorized person objects, as provided in (5)(b), a public hearing shall be held before the county commission of the county where the cemetery is located, or the city council, if the cemetery is located in a municipality, and the county commission or the city council shall have the authority to grant a request for relocation of the contents of such graves or tombs.

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

Approved by the Governor May 31, 2017.

Filed in Office Secretary of State May 31, 2017.