



March 26, 1999

**ENGROSSED
HOUSE BILL No. 1522**

DIGEST OF HB 1522 (Updated March 25, 1999 12:34 pm - DI 76)

Citations Affected: IC 14-21; IC 35-43.

Synopsis: Cemetery preservation. Provides various measures to preserve cemeteries. Requires a person who lawfully removes a grave memorial to file with the county recorder certain information pertaining to the grave memorial. Provides that a person may not buy or sell certain items that have been removed from a cemetery. Provides that a person who disturbs the earth for agricultural purposes is not exempt from committing cemetery mischief. Provides that cemetery mischief includes disturbing, defacing, or damaging certain cemetery items.
(Continued next page)

Effective: July 1, 1999.

Lytle, Bottorff, Duncan

(SENATE SPONSORS — SERVER, MEEKS R, WHEELER, LEWIS)

January 19, 1999, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 16, 1999, amended, reported — Do Pass.
February 24, 1999, read second time, ordered engrossed. Engrossed.
February 25, 1999, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 3, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
March 25, 1999, amended, reported favorably — Do Pass.

EH 1522—LS 7632/DI 100+



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Digest Continued

Prohibits a person from recklessly, knowingly, or intentionally damaging personal property contained in a structure or located at a cemetery or a facility used for memorializing the dead .Provides that cemetery mischief is a Class A misdemeanor. Enhances the penalty for the offense to a Class D felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500). Eliminates certain penalties for violations of cemetery preservation laws. In certain circumstances, exempts cemetery owners and owner of grave memorials from the cemetery preservation law. Provides that county recorders are not obligated to acquire special equipment to record grave memorial information and provides standardized forms for filing this information.

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March 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1522

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-21-2 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:

4 **Chapter 2. Cemetery Preservation**

5 **Sec. 1. This chapter does not apply to the following:**

6 (1) A cemetery owner (as defined in IC 23-14-33-8) in the
7 course of performing a legitimate function under IC 23-14 in
8 relation to the owner's cemetery (as defined in IC 23-14-33-7).

9 (2) The owner of a grave memorial who, for the purpose of
10 replacing a grave memorial with a different grave memorial,
11 transfers ownership of the grave memorial to a cemetery,
12 cemetery owner, or grave memorial provider.

13 **Sec. 2. As used in this chapter, "grave memorial" refers to a**
14 **gravestone, monument, grave marker, or any other type of similar**
15 **item.**

EH 1522—LS 7632/DI 100+



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1 **Sec. 3. (a) A person who lawfully removes a grave memorial**
 2 **must file the following with the county recorder of the county**
 3 **where the grave memorial was located before its removal:**

4 **(1) A precise description of all text appearing on the grave**
 5 **memorial including:**

- 6 **(A) names;**
 7 **(B) dates;**
 8 **(C) references to other individuals; and**
 9 **(D) mementos.**

10 **(2) A photograph of the grave memorial.**

11 **(3) A written description and photograph of the location of**
 12 **the site from which the grave memorial was removed.**

13 **(b) A county recorder may collect a filing fee under IC 36-2-7-10**
 14 **for filings under this section.**

15 **(c) A county recorder is:**

16 **(1) not required to obtain special recording equipment for the**
 17 **purpose of recording the information listed in subsection (a);**
 18 **and**

19 **(2) required to record only the information listed in**
 20 **subsection (a) that the recorder's current recording**
 21 **equipment can accommodate.**

22 **(d) The state board of accounts shall prescribe a form for**
 23 **recording the information listed in subsection (a). The form shall**
 24 **be available to the public at each local health department office.**

25 **Sec. 4. A person may not buy or sell any of the following that**
 26 **have been removed from a cemetery:**

- 27 **(1) Grave memorial.**
 28 **(2) Grave artifact.**
 29 **(3) Grave ornamentation.**
 30 **(4) Cemetery enclosure.**
 31 **(5) Other commemorative item.**

32 **Sec. 5. A person who knowingly violates a provision of this**
 33 **chapter commits a Class C misdemeanor.**

34 **SECTION 2. IC 35-43-1-2 IS AMENDED TO READ AS**
 35 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) A person who:**

- 36 **(1) recklessly, knowingly, or intentionally damages or defaces**
 37 **property of another person without the other person's consent; or**
 38 **(2) knowingly or intentionally causes another to suffer pecuniary**
 39 **loss by deception or by an expression of intention to injure**
 40 **another person or to damage the property or to impair the rights**
 41 **of another person;**

42 **commits criminal mischief, a Class B misdemeanor. However, the**

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- 1 offense is:
- 2 (A) a Class A misdemeanor if:
- 3 (i) the pecuniary loss is at least two hundred fifty dollars
- 4 (\$250) but less than two thousand five hundred dollars
- 5 (\$2,500);
- 6 (ii) the property damaged was a moving motor vehicle;
- 7 (iii) the property damaged was a car or equipment of a
- 8 railroad company being operated on a railroad right-of-way;
- 9 or
- 10 (iv) the property damage or defacement was caused by paint
- 11 or other markings; and
- 12 (B) a Class D felony if:
- 13 (i) the pecuniary loss is at least two thousand five hundred
- 14 dollars (\$2,500);
- 15 (ii) the damage causes a substantial interruption or
- 16 impairment of utility service rendered to the public;
- 17 (iii) the damage is to a public record;
- 18 (iv) the damage causes substantial interruption or
- 19 impairment of work conducted in a scientific research
- 20 facility; or
- 21 (v) the damage is to a law enforcement animal (as defined in
- 22 IC 35-46-3-4.5).
- 23 (b) A person who recklessly, knowingly, or intentionally damages:
- 24 (1) a structure used for religious worship;
- 25 ~~(2) a cemetery or a facility used for memorializing the dead;~~
- 26 ~~(3)~~ (2) a school or community center;
- 27 ~~(4)~~ (3) the grounds:
- 28 (A) adjacent to; and
- 29 (B) owned or rented in common with;
- 30 a structure or facility identified in subdivision (1) ~~or~~ (2); ~~or~~ ~~(3)~~;
- 31 or
- 32 ~~(5)~~ (4) personal property contained in a structure or located at a
- 33 facility identified in subdivision (1) ~~or~~ (2); ~~or~~ ~~(3)~~;
- 34 without the consent of the owner, possessor, or occupant of the
- 35 property that is damaged, commits institutional criminal mischief, a
- 36 Class A misdemeanor. However, the offense is a Class D felony if the
- 37 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
- 38 two thousand five hundred dollars (\$2,500), and a Class C felony if the
- 39 pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- 40 (c) If a person is convicted of an offense under this section that
- 41 involves the use of graffiti, the court may, in addition to any other
- 42 penalty, order that the person's operator's license be suspended or

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1 invalidated by the bureau of motor vehicles for not more than one (1)
2 year.

3 (d) The court may rescind an order for suspension or invalidation
4 under subsection (c) and allow the person to receive a license or permit
5 before the period of suspension or invalidation ends if the court
6 determines that:

7 (1) the person has removed or painted over the graffiti or has
8 made other suitable restitution; and

9 (2) the person who owns the property damaged or defaced by the
10 criminal mischief or institutional criminal mischief is satisfied
11 with the removal, painting, or other restitution performed by the
12 person.

13 SECTION 3. IC 35-43-1-2.1 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 1999]: **Sec. 2.1. (a) This section does not apply to the following:**

16 (1) A person who acts in a proper and acceptable manner as
17 authorized by IC 14-21 other than a person who disturbs the
18 earth for an agricultural purpose under the exemption to
19 IC 14-21 that is provided in IC 14-21-1-24.

20 (2) A person who acts in a proper and acceptable manner as
21 authorized by IC 23-14.

22 (b) A person who recklessly, knowingly, or intentionally:

23 (1) damages a cemetery or a facility used for memorializing
24 the dead;

25 (2) damages the grounds owned or rented by a cemetery or
26 facility used for memorializing the dead; or

27 (3) disturbs, defaces, or damages a cemetery monument, grave
28 marker, grave artifact, grave ornamentation, or cemetery
29 enclosure;

30 commits cemetery mischief, a Class A misdemeanor. However, the
31 offense is a Class D felony if the pecuniary loss is at least two
32 thousand five hundred dollars (\$2,500).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1522, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-21-2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 2. Cemetery Preservation

Sec. 1. As used in this chapter, "grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item.

Sec. 2. (a) A person who lawfully removes a grave memorial must file the following with the county recorder of the county where the grave memorial was located before its removal:

(1) A precise description of all text appearing on the grave memorial including:

- (A) names;**
- (B) dates;**
- (C) references to other individuals; and**
- (D) mementos.**

(2) A photograph of the grave memorial.

(3) A written description and photograph of the location of the site from which the grave memorial was removed.

(b) A county recorder may collect a filing fee under IC 36-2-7-10 for filings under this section.

Sec. 3. A person may not buy or sell any of the following that have been removed from a cemetery:

- (1) Grave memorial.**
- (2) Grave artifact.**
- (3) Grave ornamentation.**
- (4) Cemetery enclosure.**
- (5) Other commemorative item.**

Sec. 4. A grave memorial that is installed in a cemetery after January 1, 2000, to designate the grave of an individual who is buried in the cemetery must contain the name of the cemetery where the grave memorial is installed. The name of the cemetery must be added to the grave memorial by the same process that the name of the individual is added to the grave memorial.



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Sec. 5. A person who knowingly violates a provision of this chapter commits a Class C misdemeanor."

Page 3, line 7, delete "a person who" and insert "**the following:**

(1) A person who acts in a proper and acceptable manner as authorized by IC 14-21 other than a person who disturbs the earth for an agricultural purpose under the exemption to IC 14-21 that is provided in IC 14-21-1-24.

(2) A person who acts in a proper and acceptable manner as authorized by IC 23-14."

Page 3, delete lines 8 through 9.

Page 3, line 10, delete "intentionally" and insert "**intentionally:**".

Page 3, delete line 11.

Page 3, line 12, after "(1)" insert "**damages**".

Page 3, delete line 13.

Page 3, line 14, after "(2)" insert "**damages**".

Page 3, line 17, after "dead;" insert "**or**".

Page 3, between lines 17 and 18, begin a new line block indented and insert:

"(3) disturbs, defaces, or damages a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure;"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1522 as introduced.)

DILLON, Chair

Committee Vote: yeas 10, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill No. 1522, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 1. This chapter does not apply to the following:

- (1) A cemetery owner (as defined in IC 23-14-33-8) in the course of performing a legitimate function under IC 23-14 in relation to the owner's cemetery (as defined in IC 23-14-33-7).**
- (2) The owner of a grave memorial who, for the purpose of replacing a grave memorial with a different grave memorial, transfers ownership of the grave memorial to a cemetery, cemetery owner, or grave memorial provider."**

Page 1, line 5, delete "1." and insert "2."

Page 1, line 8, delete "2." and insert "3."

Page 2, between lines 4 and 5, begin a new paragraph and insert:

"(c) A county recorder is:

- (1) not required to obtain special recording equipment for the purpose of recording the information listed in subsection (a); and**
- (2) required to record only the information listed in subsection (a) that the recorder's current recording equipment can accommodate.**

(d) The state board of accounts shall prescribe a form for recording the information listed in subsection (a). The form shall be available to the public at each local health department office."

Page 2, line 5, delete "3." and insert "4."

Page 2, delete lines 12 through 17.

Page 4, line 11, after "grounds" delete ":".

Page 4, delete line 12.

Page 4, line 13, delete "(B)".

Page 4, line 13, delete "in common with:".

Page 4, run in lines 11 and 13.

Page 4, line 14, before "a" insert "by".

Page 4, line 19, delete "two".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "is at least".

Page 4, delete lines 23 through 42.

Delete page 5.



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and when so amended that said bill do pass.

(Reference is to HB 1522 as printed February 17, 1999.)

MEEKS R, Chairperson

Committee Vote: Yeas 11, Nays 0.

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