

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7632**

**BILL NUMBER: HB 1522**

**DATE PREPARED:** Mar 26, 1999

**BILL AMENDED:** Mar 25, 1999

**SUBJECT:** Cemetery preservation.

**FISCAL ANALYST:** Beverly Holloway

**PHONE NUMBER:** 232-9851

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides various measures to preserve cemeteries.

This bill requires a person who lawfully removes a grave memorial to file with the county recorder certain information pertaining to the grave memorial.

A person may not buy or sell certain items that have been removed from a cemetery.

A person who disturbs the earth for agricultural purposes is not exempt from committing cemetery mischief. The bill provides that cemetery mischief includes disturbing, defacing, or damaging certain cemetery items.

This bill 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. The bill provides that cemetery mischief is a Class A misdemeanor. The penalty for the offense is enhanced to a Class D felony if the pecuniary loss is at least \$2,500. And, this bill eliminates certain penalties for violations of cemetery preservation laws.

In certain circumstances, cemetery owners and owner of grave memorials are exempted from the cemetery preservation law.

The county recorders are not obligated to acquire special equipment to record grave memorial information and provides standardized forms for filing this information.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** (Revised) This bill requires the State Board of Accounts to prescribe a form for recording information required in the bill. This can be done within the existing budget and does

not require an additional state General Fund appropriation.

This bill could increase the number of individuals who could be found to have committed cemetery mischief. If an individual recklessly, knowingly, or intentionally commits cemetery mischief, the person commits a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least \$2,500.

A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in the Department of Correction facilities for all Class D felony offenders is approximately seven months.

**Explanation of State Revenues:** (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000 and the maximum fine for a Class D felony is \$10,000.

Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) This bill requires that the form to be used for the recording of information required in this bill is to be available to the public at each local health department office. The cost of providing the form will have a minimal increase in expenditures for each local health department office.

A Class A misdemeanor is punishable by up to one year in jail. If more defendants are charged with a Class D felony and detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** (Revised) This bill specifies information that is to be filed with a county recorder when a person lawfully removes a grave memorial. The county recorder may collect a filing fee under IC 36-2-7-10. Fees range from \$1-\$15 depending on a number of factors including but not limited to page sizes of the document, acknowledging or certifying a document, and proofreading any copy presented for certification. The amount of revenue generated from the additional recording fees allowed in this bill are indeterminable and will vary among counties. Specific fees collected by the county recorder are deposited in the Recorder's Records Perpetuation Fund which is used for the preservation of records and the improvement of record keeping systems and equipment. The bill provides that the county recorders are not obligated to acquire special equipment to record grave memorial information.

If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be

deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** State Board of Accounts; Department of Correction.

**Local Agencies Affected:** All counties; County recorder; Local health department; Trial courts; Local law enforcement.

**Information Sources:** Association of Indiana Counties, (317) 684-3710. Indiana Sheriffs Association. Department of Correction.