



February 17, 1999

HOUSE BILL No. 1522

DIGEST OF HB 1522 (Updated February 15, 1999 7:36 pm - DI 02)

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 grave memorial installed after January 1, 2000, must contain the name of the cemetery where it is installed. 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. 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 penalties for violations of cemetery preservation laws.

Effective: July 1, 1999.

Lytle, Bottorff, Duncan

January 19, 1999, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 16, 1999, amended, reported — Do Pass.

HB 1522—LS 7632/DI 100+



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February 17, 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.

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

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

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

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

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

HB 1522—LS 7632/DI 100+



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1 **(3) A written description and photograph of the location of**
2 **the site from which the grave memorial was removed.**
3 **(b) A county recorder may collect a filing fee under IC 36-2-7-10**
4 **for filings under this section.**
5 **Sec. 3. A person may not buy or sell any of the following that**
6 **have been removed from a cemetery:**
7 **(1) Grave memorial.**
8 **(2) Grave artifact.**
9 **(3) Grave ornamentation.**
10 **(4) Cemetery enclosure.**
11 **(5) Other commemorative item.**
12 **Sec. 4. A grave memorial that is installed in a cemetery after**
13 **January 1, 2000, to designate the grave of an individual who is**
14 **buried in the cemetery must contain the name of the cemetery**
15 **where the grave memorial is installed. The name of the cemetery**
16 **must be added to the grave memorial by the same process that the**
17 **name of the individual is added to the grave memorial.**
18 **Sec. 5. A person who knowingly violates a provision of this**
19 **chapter commits a Class C misdemeanor.**
20 SECTION 2. IC 35-43-1-2 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) A person who:
22 (1) recklessly, knowingly, or intentionally damages or defaces
23 property of another person without the other person's consent; or
24 (2) knowingly or intentionally causes another to suffer pecuniary
25 loss by deception or by an expression of intention to injure
26 another person or to damage the property or to impair the rights
27 of another person;
28 commits criminal mischief, a Class B misdemeanor. However, the
29 offense is:
30 (A) a Class A misdemeanor if:
31 (i) the pecuniary loss is at least two hundred fifty dollars
32 (\$250) but less than two thousand five hundred dollars
33 (\$2,500);
34 (ii) the property damaged was a moving motor vehicle;
35 (iii) the property damaged was a car or equipment of a
36 railroad company being operated on a railroad right-of-way;
37 or
38 (iv) the property damage or defacement was caused by paint
39 or other markings; and
40 (B) a Class D felony if:
41 (i) the pecuniary loss is at least two thousand five hundred
42 dollars (\$2,500);

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- 1 (ii) the damage causes a substantial interruption or
 2 impairment of utility service rendered to the public;
 3 (iii) the damage is to a public record;
 4 (iv) the damage causes substantial interruption or
 5 impairment of work conducted in a scientific research
 6 facility; or
 7 (v) the damage is to a law enforcement animal (as defined in
 8 IC 35-46-3-4.5).
- 9 (b) A person who recklessly, knowingly, or intentionally damages:
 10 (1) a structure used for religious worship;
 11 ~~(2) a cemetery or a facility used for memorializing the dead;~~
 12 ~~(3) (2) a school or community center;~~
 13 ~~(4) (3) the grounds:~~
 14 (A) adjacent to; and
 15 (B) owned or rented in common with;
 16 a structure or facility identified in subdivision (1) ~~or (2); or (3);~~
 17 or
 18 ~~(5) (4) personal property contained in a structure or located at a~~
 19 ~~facility identified in subdivision (1) or (2); or (3);~~
 20 without the consent of the owner, possessor, or occupant of the
 21 property that is damaged, commits institutional criminal mischief, a
 22 Class A misdemeanor. However, the offense is a Class D felony if the
 23 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
 24 two thousand five hundred dollars (\$2,500), and a Class C felony if the
 25 pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- 26 (c) If a person is convicted of an offense under this section that
 27 involves the use of graffiti, the court may, in addition to any other
 28 penalty, order that the person's operator's license be suspended or
 29 invalidated by the bureau of motor vehicles for not more than one (1)
 30 year.
- 31 (d) The court may rescind an order for suspension or invalidation
 32 under subsection (c) and allow the person to receive a license or permit
 33 before the period of suspension or invalidation ends if the court
 34 determines that:
 35 (1) the person has removed or painted over the graffiti or has
 36 made other suitable restitution; and
 37 (2) the person who owns the property damaged or defaced by the
 38 criminal mischief or institutional criminal mischief is satisfied
 39 with the removal, painting, or other restitution performed by the
 40 person.

41 SECTION 3. IC 35-43-1-2.1 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

HB 1522—LS 7632/DI 100+



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- 1, 1999]: **Sec. 2.1. (a) This section does not apply to the following:**
- 2 **(1) A person who acts in a proper and acceptable manner as**
3 **authorized by IC 14-21 other than a person who disturbs the**
4 **earth for an agricultural purpose under the exemption to**
5 **IC 14-21 that is provided in IC 14-21-1-24.**
- 6 **(2) A person who acts in a proper and acceptable manner as**
7 **authorized by IC 23-14.**
- 8 **(b) A person who recklessly, knowingly, or intentionally:**
- 9 **(1) damages a cemetery or a facility used for memorializing**
10 **the dead;**
- 11 **(2) damages the grounds:**
- 12 **(A) adjacent to; and**
- 13 **(B) owned or rented in common with;**
- 14 **a cemetery or facility used for memorializing the dead; or**
- 15 **(3) disturbs, defaces, or damages a cemetery monument, grave**
16 **marker, grave artifact, grave ornamentation, or cemetery**
17 **enclosure;**
- 18 **commits cemetery mischief, a Class A misdemeanor. However, the**
19 **offense is a Class D felony if the pecuniary loss is at least two**
20 **hundred fifty dollars (\$250) but less than two thousand five**
21 **hundred dollars (\$2,500), and a Class C felony if the pecuniary loss**
22 **is at least two thousand five hundred dollars (\$2,500).**
- 23 **(c) If a person is convicted of an offense under this section that**
24 **involves the use of graffiti, the court may, in addition to any other**
25 **penalty, order that the person's operator's license be suspended or**
26 **invalidated by the bureau of motor vehicles for not more than one**
27 **(1) year.**
- 28 **(d) This subsection does not apply if a person convicted of an**
29 **offense under this section is the owner of the property. The court**
30 **may rescind an order for suspension or invalidation under**
31 **subsection (c) and allow the person to receive a license or permit**
32 **before the period of suspension or invalidation ends if the court**
33 **determines that:**
- 34 **(1) the person has removed or painted over the graffiti or has**
35 **made other suitable restitution; and**
- 36 **(2) the person who owns the property damaged or defaced by**
37 **the cemetery mischief is satisfied with the removal, painting,**
38 **or other restitution performed by the person.**
- 39 **(e) If the person convicted of an offense under this section is the**
40 **owner of the property, the court may rescind an order for**
41 **suspension or invalidation under subsection (c) and allow the**
42 **person to receive a license or permit before the period of**



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1 **suspension or invalidation ends if the court determines that the**
2 **person has:**
3 **(1) removed or painted over the graffiti; or**
4 **(2) made other suitable restitution.**

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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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