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House Bill 1522

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Synopsis:

Cemetery preservation.

Current Status:

Signed by the President

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— Session Information —

Action List: HB 1522

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Synopsis: Cemetery preservation.

Authors:

Date	Chamber	Action
01/19/1999	H	Authored by Representative Lytle
01/19/1999	H	First reading: referred to Committee on Agriculture, Natural Resources and Rural Development
02/01/1999	H	Representative Bottorff added as coauthor
02/16/1999	H	Committee report: amend do pass, adopted
02/16/1999	H	Representative Duncan added as coauthor
02/24/1999	H	Second reading: ordered engrossed
02/25/1999	H	Third reading: passed; Roll Call 254: Yeas 97, Nays 0
02/25/1999	H	Referred to the Senate
02/25/1999	H	First Senate Sponsor: Senator Server
02/25/1999	H	Second Senate Sponsor: Senator R. Meeks
02/25/1999	H	Cosponsors: Senators Wheeler, Lewis
02/25/1999	H	Representatives Richardson, Oxley, Stilwell, Budak, Kruse, Steele, Cherry, Saunders, Mangus, Friend, Behning added as coauthors
03/03/1999	S	First reading: referred to Committee on Corrections, Criminal and Civil Procedures
03/25/1999	S	Committee report: amend do pass, adopted
03/30/1999	S	Second reading: ordered engrossed
04/06/1999	S	Third reading: passed; Roll Call 407: Yeas 49, Nays 0
04/06/1999	S	Returned to the House with amendments
04/13/1999	H	House concurred in Senate amendments Roll Call 675: Yeas 92, Nays 0
04/21/1999	H	Signed by the Speaker
04/27/1999	S	Signed by the President

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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 ENROLLED ACT No. 1522

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

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

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. 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.

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

Sec. 3. (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:

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- (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.**
- (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.**

Sec. 4. 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. 5. A person who knowingly violates a provision of this chapter commits a Class C misdemeanor.

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

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

commits criminal mischief, a Class B misdemeanor. However, the offense is:

- (A) a Class A misdemeanor if:**
 - (i) the pecuniary loss is at least two hundred fifty dollars**

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(\$250) but less than two thousand five hundred dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way;

or

(iv) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; or

(v) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5).

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

(1) a structure used for religious worship;

~~(2) a cemetery or a facility used for memorializing the dead;~~

~~(3) (2) a school or community center;~~

~~(4) (3) the grounds:~~

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) ~~or (2); or (3);~~

or

~~(5) (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2); or (3);~~

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation

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under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

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

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

- (1) damages a cemetery or a facility used for memorializing the dead;**
- (2) damages the grounds owned or rented by a cemetery or facility used for memorializing the dead; or**
- (3) disturbs, defaces, or damages a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure;**

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

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