

No. 1994-22

AN ACT

HB 290

Providing for the preservation of historic burial places and tombs, monuments and gravestones; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Historic Burial Places Preservation Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Burial ground authority.” An individual, municipality, ecclesiastical society, cemetery association or other entity which has charge of a historic burial place.

“Historic burial lot.” An individual burial site within a historic burial place.

“Historic burial place.” A tract of land that has been in existence as a burial ground for more than 100 years wherein there have been no burials for at least 50 years and wherein there will be no future burials or listed in or eligible for the National Register of Historic Places as determined by the Pennsylvania Historical and Museum Commission.

“Tomb.” A vault containing the remains of a deceased person.

Section 3. Restriction on alienation and use of historic burial places.

(a) Restriction.—No municipality shall alienate or condemn through eminent domain proceedings a historic burial place or appropriate a historic burial place to any use other than that of a burial ground. No portion of any such burial place shall be taken for public use without the approval of the Pennsylvania Historical and Museum Commission. Should such approval not be granted within a time period, not to exceed one year from the date approval was sought, approval shall be sought from the General Assembly.

(b) Record of removal.—If any historic burial place is appropriated for any other use and the tombs, monuments, gravestones or other memorials are removed from it, the burial ground authority shall preserve a record of the removal indicating the date of the removal and the site or place to which the removal was made. The authority shall send copies of such records to the recorder of deeds in the county in which the burial place is located and to the Pennsylvania Historical and Museum Commission.

Section 4. Restrictions on removal of tombs, monuments, etc.

(a) **General rule.**—No fence, tomb, monument or gravestone or fragment thereof within a historic burial place shall be destroyed. No fence, tomb, monument or gravestone or fragment thereof within any historic burial place shall be removed except in accordance with the provisions of this section.

(b) **Procedure or lawful removal.**—A gravestone or other memorial for the dead may be removed for the purpose of repair or replacement, reproduction or preservation and display in an accredited museum with:

(1) the consent of the owner of the historic burial lot in which the gravestone or memorial is placed or the consent of a lineal descendant of the deceased or, if such owner or lineal descendant is unknown, the consent of the burial ground authority; and

(2) an order of the court of common pleas of the county in which the historic burial place is located.

(c) **Court order for removal.**—Upon written application of the consenting owner, lineal descendant or burial ground authority, the court of common pleas may, after a hearing, with notice of the hearing having been given to interested parties and otherwise as the court deems appropriate, order the removal of the gravestone or memorial if it finds that the removal is necessary or desirable for the protection and preservation of the gravestone or memorial.

Section 5. Offenses.

(a) **Destruction of tombs, monuments, gravestones, etc.**—A person who, without authorization of the owner of a historic burial lot or a lineal descendant of the deceased or of the historic burial ground authority, commits a misdemeanor of the second degree if:

(1) he intentionally destroys, mutilates, defaces or removes any tomb, monument, gravestone or other structure or any portion or fragment thereof, placed or designed as a memorial for the dead, or any fence, railing, curb or other enclosure for the burial of the dead in a historic burial place; or

(2) he wantonly or maliciously disturbs the contents of any tomb or grave in a historic burial place.

(b) **Unlawful possession of monuments, gravestones or certain other structures.**—A person commits a misdemeanor of the second degree if he possesses or sells, offers for sale or attempts to sell or transfers or disposes of any monument, gravestone or other structure or any portion or fragment thereof, placed or designed for a memorial of the dead, knowing that it has been unlawfully removed from a historic burial place.

Section 6. Effective date.

This act shall take effect in 60 days.

APPROVED—The 29th day of April, A.D. 1994.

ROBERT P. CASEY