

MAINE STATE LEGISLATURE

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MINORITY

L.D. 1071

Date: 5/15/15

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

SENATE

127TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 374, L.D. 1071, Bill, "An Act To Increase the Penalties for Vandalizing a Cemetery"

Amend the bill by striking out the title and substituting the following:

'An Act To Address Vandalism of a Cemetery'

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 13 MRSA §1101, sub-§3 is enacted to read:

3. Cemeteries. A municipality shall repair and restore tombs, monuments, gravestones, markers and any fences, railings, curbs or other enclosures that have been damaged and for which repair and restoration have not been provided by a person or organization.'

Amend the bill in section 2 in subsection 1 in paragraph A in the last line (page 1, line 16 in L.D.) by striking out the following: "C crime;" and inserting the following: "D crime; or'

Amend the bill in section 2 in subsection 1 in paragraph B in the last line (page 1, line 24 in L.D.) by striking out the following: "C crime; or" and inserting the following: "D crime.'

Amend the bill in section 2 in subsection 1 by striking out all of paragraph C (page 1, lines 25 to 32 in L.D.)

Amend the bill in section 4 in subsection 4 by striking out all of the first paragraph (page 1, lines 36 to 39 in L.D.) and inserting the following:

4. Notwithstanding section 1323, subsections 1 and 2 and section 1325, subsections 1 and 2, the court shall order restitution under chapter 54 if a violation of subsection 1 results in any damages or pecuniary loss. If possible, damages must be calculated by an appropriate professional conservator. The following may be a claimant:'

COMMITTEE AMENDMENT

1 Amend the bill in section 5 in §507-B in the first line in the headnote (page 2, line 17
2 in L.D.) by inserting after the following: "gravestones" the following: 'and memorials'

3 Amend the bill in section 5 in §507-B in subsection 4 by striking out all of the first
4 paragraph (page 2, lines 39 and 40 and page 3, lines 1 and 2 in L.D.) and inserting the
5 following:

6 '4. Notwithstanding section 1323, subsections 1 and 2 and section 1325, subsections
7 1 and 2, the court shall order restitution under chapter 54 if a violation of subsection 1
8 results in any damages or pecuniary loss. If possible, damages must be calculated by an
9 appropriate professional conservator. The following may be a claimant under section
10 1324.'

11 Amend the bill by striking out all of section 8.

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
13 section number to read consecutively.

14 SUMMARY

15 This amendment is the minority report of the committee. The amendment retains the
16 provisions of the bill that make restitution mandatory in criminal cases involving
17 interference with a cemetery or burial ground and illegal possession of gravestones. The
18 amendment strikes from the bill the provision that removes from the consideration of the
19 court the inability to pay of a person who commits these crimes. The amendment strikes
20 from the bill the strict liability crime of removal of a flower, flag, flag holder or memorial
21 token from a grave, tomb, monument or burial lot and the crime of owning or controlling
22 an animal that destroys, mutilates, defaces, injures or removes any tomb, monument,
23 gravestone, marker, metal plaque, flag, flag holder or veteran's grave marker or other
24 structure or thing placed or designed as a memorial or to protect a memorial for the dead,
25 or any portion or fragment of any such memorial, or any fence, railing, curb or other
26 enclosure for the burial of the dead. The amendment maintains the designation in current
27 law of interference with a cemetery or burial ground as a Class D crime. The amendment
28 requires municipalities to repair and restore tombs, monuments, gravestones, markers and
29 any fences, railings, curbs or other enclosures that have been damaged and for which
30 repair and restoration have not been provided by a person or organization.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



127th MAINE LEGISLATURE

LD 1071

LR 1579(02)

An Act To Increase the Penalties for Vandalizing a Cemetery

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-100)

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

Correctional and Judicial Impact Statements

Establishes new Class D crimes.

The collection of additional fines may also increase General Fund revenue by minor amounts.

State Mandates

Required Activity

To repair and restore tombs, monuments, gravestones and related enclosures in cemeteries.

Unit Affected

Municipality

Local Cost

Significant statewide

The required local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.