

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1071

S.P. 374

In Senate, March 24, 2015

An Act To Increase the Penalties for Vandalizing a Cemetery

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

Cosponsored by Senators: CUSHING of Penobscot, DILL of Penobscot, Representative:
BLACK of Wilton.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §507, sub-§1**, as enacted by PL 1975, c. 499, §1, is amended
3 to read:

4 **1.** A person is guilty of desecration ~~and defacement~~ if ~~he~~ the person intentionally
5 desecrates any public monument or structure, any place of worship or burial, or any
6 private structure not owned by ~~him~~ the person.

7 **Sec. 2. 17-A MRSA §507-A, sub-§1**, as enacted by PL 1987, c. 326, §2, is
8 repealed and the following enacted in its place:

9 **1.** A person is guilty of interference with a cemetery or burial ground if the person:

10 A. Intentionally or knowingly destroys, mutilates, defaces, injures or removes any
11 tomb, monument, gravestone, marker, metal plaque, flag, flag holder or veteran's
12 grave marker or other structure or thing placed or designed as a memorial or to
13 protect a memorial for the dead, or any portion or fragment of any such memorial, or
14 any fence, railing, curb or other enclosure for the burial of the dead, including
15 damaging or destroying vegetation or a plant within an enclosure for the burial of the
16 dead. A violation of this paragraph is a Class C crime;

17 B. Intentionally or knowingly allows an animal under the person's ownership or
18 control to destroy, mutilate, deface, injure or remove any tomb, monument,
19 gravestone, marker, metal plaque, flag, flag holder or veteran's grave marker or other
20 structure or thing placed or designed as a memorial or to protect a memorial for the
21 dead, or any portion or fragment of any such memorial, or any fence, railing, curb or
22 other enclosure for the burial of the dead, including damaging or destroying
23 vegetation or a plant within an enclosure for the burial of the dead. A violation of
24 this paragraph is a Class C crime; or

25 C. Removes a flower, flag, flag holder or memorial token from any grave, tomb,
26 monument or burial lot or owns or controls an animal that destroys, mutilates,
27 defaces, injures or removes any tomb, monument, gravestone, marker, metal plaque,
28 flag, flag holder or veteran's grave marker or other structure or thing placed or
29 designed as a memorial or to protect a memorial for the dead, or any portion or
30 fragment of any such memorial, or any fence, railing, curb or other enclosure for the
31 burial of the dead, including damaging or destroying vegetation or a plant within an
32 enclosure for the burial of the dead. A violation of this paragraph is a Class D crime.

33 **Sec. 3. 17-A MRSA §507-A, sub-§3**, as enacted by PL 1987, c. 326, §2, is
34 repealed.

35 **Sec. 4. 17-A MRSA §507-A, sub-§4** is enacted to read:

36 **4.** The court shall order restitution under chapter 54 if a violation of subsection 1
37 results in any damages or pecuniary loss. If possible, damages must be calculated by an
38 appropriate professional conservator. The following may be a claimant under section
39 1324:

1 A. The municipality or, in the case of unorganized territory, the county in which the
2 cemetery or burial ground is located;

3 B. A cemetery association authorized to bring suit and recover damages by the
4 municipality or, in the case of unorganized territory, the county in which the
5 cemetery or burial ground is located;

6 C. A historical society authorized to bring suit and recover damages by the
7 municipality or, in the case of unorganized territory, the county in which the
8 cemetery or burial ground is located; or

9 D. The estate, next of kin or lineal descendant of the deceased person whose grave
10 site, burial ground, cemetery, tomb, gravestone, marker, metal plaque, flag, flag
11 holder or veteran's grave marker or other structure or thing placed or designed as a
12 memorial or to protect a memorial for the dead, or any portion or fragment of any
13 such memorial, or any fence, railing, curb or other enclosure for the burial of the dead
14 or vegetation or plant was damaged.

15 **Sec. 5. 17-A MRS §507-B**, as enacted by PL 1987, c. 326, §2, is amended to
16 read:

17 **§507-B. Illegal possession or sale of gravestones**

18 1. ~~No~~ A person may not possess, sell, attempt to sell, offer for sale, transfer or
19 dispose of ~~any tomb, monument, gravestone, marker or other structure placed or designed~~
20 ~~as a memorial for the dead, or any portion or fragment of any such memorial~~ a memorial,
21 knowing or having reasonable cause to know that it has been illegally removed from a
22 cemetery or burial ground. For purposes of this section, "memorial" means any tomb,
23 monument, gravestone, marker, metal plaque, flag, flag holder or veteran's grave marker
24 or other structure placed or designed as a memorial for the dead, or any portion or
25 fragment of any such memorial.

26 2. Any person who violates subsection 1 commits a Class C crime.

27 3. Any person who violates subsection 1 is liable to the following for triple
28 damages to be recovered in a civil action:

29 A. The municipality or, in the case of unorganized territory, the county in which the
30 cemetery or burial ground is located;

31 B. A cemetery association authorized to bring suit and recover damages by the
32 municipality or, in the case of unorganized territory, the county in which the
33 cemetery or burial ground is located; ~~or~~

34 C. A historical society authorized to bring suit and recover damages by the
35 municipality or, in the case of unorganized territory, the county in which the
36 cemetery or burial ground is located; ~~;~~ or

37 D. The estate, next of kin or lineal descendant of the deceased whose memorial was
38 illegally removed from the cemetery or burial ground.

39 4. The court shall order restitution under chapter 54 if a violation of subsection 1
40 results in any damages or pecuniary loss. If possible, damages must be calculated by an

1 appropriate professional conservator. The following may be a claimant under section
2 1324:

3 A. The municipality or, in the case of unorganized territory, the county in which the
4 cemetery or burial ground is located;

5 B. A cemetery association authorized to bring suit and recover damages by the
6 municipality or, in the case of unorganized territory, the county in which the
7 cemetery or burial ground is located;

8 C. A historical society authorized to bring suit and recover damages by the
9 municipality or, in the case of unorganized territory, the county in which the
10 cemetery or burial ground is located; or

11 D. The estate, next of kin or lineal descendant of the deceased person whose
12 memorial was damaged.

13 **Sec. 6. 17-A MRSA §1324, sub-§§3 and 4**, as enacted by PL 1977, c. 455, §3,
14 are amended to read:

15 **3. Person providing recovery.** Any person, firm, organization, corporation or
16 government entity ~~which~~ that has provided recovery to the victim as a collateral source,
17 but only to the extent that such recovery was actually made; ~~and~~

18 **4. Person acting on behalf of victim.** Any person legally authorized to act on behalf
19 of the victim; ~~and~~

20 **Sec. 7. 17-A MRSA §1324, sub-§5** is enacted to read:

21 **5. Cemeteries and burial grounds.** A person authorized as a claimant under
22 section 507-A, subsection 4 or 507-B, subsection 4.

23 **Sec. 8. 17-A MRSA §1325, sub-§3**, as enacted by PL 1987, c. 157, §5, is
24 amended to read:

25 **3. Exception.** The provisions of subsection 2, paragraph D; do not apply to an
26 offender ~~which~~ that is an organization or to a person who violates the provisions of
27 section 507-A, subsection 4 or section 507-B, subsection 4.

28 SUMMARY

29 This bill:

30 1. Amends the laws regarding damaging cemeteries and burial grounds by including
31 damage to metal plaques, flags, flag holders, veteran's grave markers, vegetation and
32 plants and adding damage created by an animal owned by or in the control of a person
33 and by increasing the class of the crime from Class D to Class C;

34 2. Designates as a Class D crime a person's removing a flower, flag, flag holder or
35 other memorial token from a burial ground without permission to do so or owning or
36 controlling an animal that damages or destroys property in a cemetery or burial ground;

1 3. Adds metal plaques, flags, flag holders and veteran's grave markers to the crime of
2 illegal possession or sale of gravestones;

3 4. Amends the restitution provisions in the law by expanding the list of authorized
4 claimants to the crimes of interference with a cemetery or burial ground and illegal
5 possession or sale of gravestones and removes from the consideration of the court the
6 defendant's inability to pay; and

7 5. Expands the list of claimants who may bring a civil suit with treble damages for
8 the illegal possession or sale of gravestones.