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SENATE BILL NO. 494

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 18.2-127 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.6, relating to trespass to cemeteries; injury to cemetery property.

Patron—Mims

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-127 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.6 as follows:**

*§ 8.01-44.6. Action for injury to cemetery property.*

*The owner or operator of a cemetery company may bring an action to recover damages sustained, together with costs and attorneys' fees, against any person who willfully or maliciously destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, or other structure placed within any cemetery, graveyard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fence, railing, or other work for the protection or ornament of any tomb, monument, gravestone, or other structure aforesaid, or of any cemetery lot within any cemetery. The cemetery owner or operator may recover, as part of damages sustained, the cost of repair or replacement of damaged property, including any labor costs, regardless of whether the property damaged is owned by the cemetery or by another person.*

*§ 18.2-127. Injuries to churches, church property, cemeteries, burial grounds, etc.; penalty.*

A. Any person who willfully or maliciously commits any of the following acts is guilty of a Class 1 misdemeanor:

1. Destroys, removes, cuts, breaks, or injures any tree, shrub, or plant on any church property or within any cemetery or lot of any memorial or monumental association;

2. Destroys, mutilates, injures, or removes and carries away any flowers, wreaths, vases, or other ornaments placed within any church or on church property, or placed upon or around any grave, tomb, monument, or lot in any cemetery, graveyard, or other place of burial; or

3. Obstructs proper ingress to and egress from any church or any cemetery or lot belonging to any memorial or monumental association.

B. Any person who willfully or maliciously destroys, mutilates, defaces, injures, or removes any object or structure permanently attached or affixed within any church or on church property, any tomb, monument, gravestone, or other structure placed within any cemetery, graveyard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fence, railing, or other work for the protection or ornament of any tomb, monument, gravestone, or other structure aforesaid, or of any cemetery lot within any cemetery is guilty of a Class 6 felony. A cemetery owner or operator shall have standing to be the complaining witness in any prosecution under this section if the property damaged is located within such cemetery, regardless of whether the property damaged is owned by the cemetery or by another person. A person violating this section shall be required to pay restitution to the church, if the property damaged is property of the church, or to the owner of a cemetery, if the property damaged is located within such cemetery.

C. This section shall not apply to any work which is done by the authorities of a church or congregation in the maintenance or improvement of any church property or any burial ground or cemetery belonging to it and under its management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker or vault. For purposes of this section, "church" shall mean any place of worship, and "church property" shall mean any educational building or community center owned or rented by a church.

INTRODUCED

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