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HOUSE BILL NO. 1422

Offered January 14, 2008

A BILL to amend and reenact § 57-27.1 of the Code of Virginia, relating to access to cemeteries and graves located on private property; injunctive relief.

Patron—Alexander

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 57-27.1 of the Code of Virginia is amended and reenacted as follows:**

§ 57-27.1. Access to cemeteries located on private property; cause of action for injunctive relief; applicability.

A. Owners of private property on which a cemetery or graves are located shall have a duty to allow ingress and egress to the cemetery or graves by (i) family members and descendants of deceased persons buried there; (ii) *a designee of a family member or descendant*; (iii) any cemetery plot owner; and ~~(iii)~~ (iv) *any other person who has a special interest in the cemetery or grave including, but not limited to any person engaging in genealogy research, who has given reasonable notice to the owner of record or to the occupant of the property or both.* The landowner may designate the frequency of access, hours and duration of the access and the access route if no traditional access route is obviously visible by a view of the property. The landowner, in the absence of gross negligence or willful misconduct, shall be immune from liability in any civil suit, claim, action, or cause of action arising out of the access granted pursuant to this section.

B. The right of ingress and egress granted to persons specified in subsection A shall be reasonable and limited to the purposes of visiting graves, maintaining the gravesite or cemetery, or conducting genealogy research. The right of ingress and egress shall not be construed to provide a right to operate motor vehicles on the property for the purpose of accessing a cemetery or gravesite unless there is a road or adequate right-of-way that permits access by a motor vehicle and the owner has given written permission to use the road or right-of-way of necessity.

C. Any person entering onto private property to access a gravesite or cemetery shall be responsible for conducting himself in a manner that does not damage the private lands, the cemetery or gravesites and shall be liable to the owner of the property for any damage caused as a result of his access.

D. Any person denied reasonable access under the provisions of this section may bring an action in the circuit court where the property is located to enjoin the owner of the property from denying the person reasonable ingress and egress to the cemetery or gravesite. *The court shall enter an order granting relief if it finds (i) there are reasonable grounds to believe that the cemetery or grave is located on the property; (ii) the petitioner is a descendent of the deceased or a designee of such individual, a cemetery plot owner, or has a special interest in the cemetery or grave; and (iii) the entry on the property would not unreasonably interfere with the enjoyment of the property by the landowner.* In granting such relief, the court may set the frequency of access, hours and duration of the access.

E. The provisions of this section shall not apply to any deed or other written instrument that creates or reserves a cemetery or gravesite on private property.

INTRODUCED

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