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HOUSE BILL NO. 2177

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend and reenact § 57-27.1 of the Code of Virginia, relating to access to private cemeteries.*

Patron—Phillips

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) any cemetery plot owner; and (iii) 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. *For the purposes of the preceding sentence, no landowner shall erect a wall, fence or other structure or device that prevents ingress and egress to the cemetery or grave, unless the wall, fence or other structure or device has a gate or other means by which ingress and egress can be accomplished by persons specified in this subsection.* 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. In granting such relief, the court may (i) set the frequency of access, hours and duration of the access and (ii) award reasonable attorney fees and costs to the person denied such 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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