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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 204 Session of  
1991

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INTRODUCED BY SCHULER, NICKOL, NAILOR, SCHEETZ, CIVERA, STURLA,  
BILLOW, STRITTMATTER, NOYE, BUNT, SAURMAN, KOSINSKI, BARLEY,  
VROON, HASAY, GEIST, KAISER, FAIRCHILD, COLAFELLA,  
E. Z. TAYLOR, TRELLO, BATTISTO AND TELEK, FEBRUARY 4, 1991

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 4, 1991

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AN ACT

1 Providing for the preservation of historic burial places and  
2 tombs, monuments and gravestones; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Historic  
7 Burial Places Preservation Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Burial ground authority." A municipality, ecclesiastical  
13 society, cemetery association or other entity that has charge of  
14 a historic burial place.

15 "Historic burial place." A tract of land that has been in  
16 existence as a burial ground for more than 100 years wherein  
17 there have been no burials for at least 50 years and wherein

1 there will be no future burials.

2 Section 3. Restriction on alienation and use of historic burial  
3 places.

4 No municipality shall alienate or condemn through eminent  
5 domain proceedings a historic burial place or appropriate a  
6 historic burial place to any use other than that of a burial  
7 ground. No portion of any such burial place shall be taken for  
8 public use without the approval of the General Assembly. If any  
9 historic burial place is appropriated for any other use and the  
10 bodies buried in the historic burial place or the monuments,  
11 gravestones or other memorials are removed, the burial ground  
12 authority shall preserve a record of the removal indicating the  
13 date of the removal and the site or place to which the removal  
14 was made.

15 Section 4. Restrictions on removal of tombs, monuments, etc.

16 (a) General rule.--No fence, tomb, monument or gravestone or  
17 fragment thereof within a historic burial place shall be  
18 destroyed. No fence, tomb, monument or gravestone or fragment  
19 thereof within any historic burial place shall be removed except  
20 in accordance with the provisions of this section.

21 (b) Procedure or lawful removal.--A gravestone or other  
22 memorial for the dead may be removed for the purpose of repair  
23 or replacement, reproduction or preservation and display in an  
24 accredited museum with:

25 (1) the consent of the owner of the historic burial lot  
26 in which the gravestone or memorial is placed or the consent  
27 of a lineal descendant of the deceased or, if such owner or  
28 lineal descendant is unknown, the consent of the burial  
29 ground authority; and

30 (2) an order of the court of common pleas of the county

1 in which the historic burial place is located.

2 (c) Court order for removal.--Upon written application of  
3 the consenting owner, lineal descendant or burial ground  
4 authority, the court of common pleas may, after a hearing, with  
5 notice of the hearing having been given to interested parties  
6 and otherwise as the court deems appropriate, order the removal  
7 of the gravestone or memorial if it finds that the removal is  
8 necessary or desirable for the protection and preservation of  
9 the gravestone or memorial.

10 Section 5. Offenses.

11 (a) Destruction of tombs, monuments, gravestones, etc.--A  
12 person who, without authorization of the owner of a historic  
13 burial lot or a lineal descendant of the deceased or of the  
14 historic burial ground authority, commits a misdemeanor of the  
15 second degree if:

16 (1) he intentionally destroys, mutilates, defaces or  
17 removes any tomb, monument, gravestone or other structure or  
18 any portion or fragment thereof, placed or designed as a  
19 memorial for the dead, or any fence, railing, curb or other  
20 enclosure for the burial of the dead in a historic burial  
21 place; or

22 (2) he wantonly or maliciously disturbs the contents of  
23 any tomb or grave in a historic burial place.

24 (b) Unlawful possession of monuments, gravestones or certain  
25 other structures.--A person commits a misdemeanor of the second  
26 degree if he possesses or sells, offers for sale or attempts to  
27 sell or transfers or disposes of any monument, gravestone or  
28 other structure or any portion or fragment thereof, placed or  
29 designed for a memorial of the dead, knowing that it has been  
30 unlawfully removed from a historic burial place.

1 Section 6. Effective date.

2 This act shall take effect in 60 days.