**A** **BILL**

TO AMEND SECTION 16‑17‑600 OF THE 1976 CODE, RELATING TO THE DESTRUCTION OF HUMAN REMAINS OR REPOSITORIES AND THE DESECRATION OF BURIAL GROUNDS, AMONG OTHER THINGS, TO PROVIDE THAT IT IS UNLAWFUL TO DEFACE, VANDALIZE, INJURE, OR REMOVE A HISTORICAL MONUMENT OR HISTORICAL MARKER ON PUBLIC PROPERTY, TO PROVIDE PENALTIES, TO PROVIDE PROCEDURES FOR CORRECTION TO THE PUBLIC PROPERTY, AND TO PROVIDE FOR THE RECOVERY OF CERTAIN COSTS ASSOCIATED WITH THE CORRECTIONS

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑17‑600 of the 1976 Code is amended to read:

“Section 16-17-600. (A)(1) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

~~(1)~~(a) destroy or damage the remains of a deceased human being;

~~(2)~~(b) remove a portion of the remains of a deceased human being from a burial ground where human skeletal remains are buried, a grave, crypt, vault, mausoleum, Native American burial ground or burial mound, or other repository; or

~~(3)~~(c) desecrate human remains.

(2) A person violating the provisions of this subsection ~~(A)~~ is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not less than one year nor more than ten years, or both.

(3)(a) A crematory operator is neither civilly nor criminally liable for cremating a body ~~which~~ that:

~~(1)~~(i) has been incorrectly identified by the funeral director, coroner, medical examiner, or person authorized by law to bring the deceased to the crematory; or

~~(2)~~(ii) the funeral director has obtained invalid authorization to cremate.

(b) This immunity does not apply to a crematory operator who knew or should have known that the body was incorrectly identified.

(B)(1) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

~~(1)~~(a) obliterate, vandalize, or desecrate a burial ground where human skeletal remains are buried, a grave, graveyard, tomb, mausoleum, Native American burial ground or burial mound, or other repository of human remains;

~~(2)~~(b) deface, vandalize, injure, or remove a gravestone or other memorial monument or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, Native American burial ground or burial mound, memorial park, or battlefield; ~~or~~

~~(3)~~(c) obliterate, vandalize, or desecrate a park, Native American burial ground or burial mound, or other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons; or

(d) deface, vandalize, injure, or remove a historical monument or historical marker on public property.

(2) A person violating the provisions of this subsection ~~(B)~~ is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both, and must be required to perform at least two hundred fifty hours of community service.

(3) A historical monument or historical marker on public property that is defaced, vandalized, injured, or removed in violation of item (B)(1)(d) must be repaired and restored by the owner of the public property upon which the historical monument or historical marker is located, regardless of whether the owner of the public property or another person is responsible for the defacement, vandalization, injury, or removal of the historical monument or historical marker. The historical monument or historical marker must be repaired and restored within ninety days if the historical monument or historical marker is intact and within one year if the historical monument or historical marker is so damaged that repairs or replacement are required. The owner of the public property upon which the historical marker or historical monument is located shall bear the costs of repair and restoration.

(4) A person or organization that has an interest in caring for a property may bring a civil action for a violation of subsection (B) to recover damages and the cost of restoration and repair of the property, plus attorney’s fees and court costs. If the violation is under the color of law or by any government agency, then the recovery may be for treble damages in addition to the cost of restoration and repair of the property, plus attorney’s fees and court costs. An organization with a purpose, primary or otherwise, to remember or honor a particular event, people, or time period, including, but not limited to, historical and heritage organizations, shall have standing to bring a civil action as described in this section.

(5) For the purposes of subsection (B)(1)(d), the term ‘historical monument’ or ‘historical marker’ means a statue or memorial dedicated to the memory of a historical figure, person, group, or event.

(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

(a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

(b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the theft of, destruction to, injury to, or loss of property is valued at less than four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, and must be required to perform not more than two hundred fifty hours of community service.

(D) A person who owns or has an interest in caring for the property, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover damages, and the cost of restoration and repair of the property, plus attorney’s fees and court costs.”

SECTION 2. This act takes effect upon approval by the Governor.

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