

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 177

Local Government and Regional Affairs Committee Substitute Adopted 3/13/91

Short Title: Abandoned Public Cemeteries.

(Public)

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Sponsors:

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Referred to:

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February 25, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND ARTICLE 10 OF CHAPTER 65 TO ALLOW ACCESS TO  
AND MAINTENANCE OF PRIVATE GRAVES AND ABANDONED PUBLIC  
CEMETERIES.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 65 reads as rewritten:

**"ARTICLE 10.**

**"ACCESS TO AND MAINTENANCE OF PRIVATE GRAVES,  
GRAVES AND ABANDONED PUBLIC CEMETERIES.**

**"§ 65-74. Entering public or private property to maintain or visit a private grave or an abandoned public cemetery with consent.**

Any of the following ~~persons may,~~ persons, with the consent of the public or private landowner, may enter the property of another to discover, restore, maintain, or visit a private ~~grave:~~ grave or abandoned public cemetery:

- (1) A descendant of the person whose remains are reasonably believed to be interred in the grave;
- (2) A descendant's designee; or
- (3) Any other person who ~~was personally acquainted with or~~ has a special personal interest in the ~~deceased~~ grave or abandoned public cemetery.

**"§ 65-75. Entering public or private property to maintain or visit a private grave or an abandoned public cemetery without consent.**

(a) If the consent of the landowner cannot be obtained, any person listed in G.S. 65-74(1), (2), or (3) may commence a special proceeding by petitioning the clerk of

1 superior court of the county in which he has reasonable grounds to believe the deceased  
2 is buried, or in the case of an abandoned public cemetery, in the county in which the  
3 abandoned public cemetery is located for an order allowing him to enter the property to  
4 discover, restore, maintain, or visit the ~~grave-~~grave or abandoned public cemetery. The  
5 petition shall be verified. This special proceeding shall be in accordance with the  
6 provisions of Article 33 of Chapter 1 of the General Statutes. The clerk shall issue an  
7 order allowing the petitioner to enter the property if he finds that:

- 8 (1) There are reasonable grounds to believe that the grave or abandoned  
9 public cemetery is located on the property or that it is reasonably  
10 necessary to enter or cross the landowner's property to reach the ~~grave-~~  
11 grave or abandoned public cemetery;
  - 12 (2) The petitioner, or his designee, is a descendant of the deceased, or that  
13 the petitioner ~~was personally acquainted with or had~~ has a special interest  
14 in the ~~deceased,~~ grave or abandoned public cemetery; and
  - 15 (3) The entry on the property would not unreasonably interfere with the  
16 enjoyment of the property by the landowner.
- 17 (b) The clerk's order may:
- 18 (1) Specify the dates and the daylight hours that the petitioner may enter  
19 and remain on the property;
  - 20 (2) Grant to the petitioner the right to enter the landowner's property ~~once~~  
21 ~~a month~~ periodically, as specified in the order, after the time needed for  
22 initial restoration of the ~~grave;~~ grave or abandoned public cemetery; or
  - 23 (3) Specify a reasonable route from which the petitioner may not deviate  
24 in all entries and exits from the property."

25 Sec. 2. This act is effective upon ratification.