

1 **H. B. 2542**

2
3 (By Delegate Brown)

4 [Introduced January 18, 2011; referred to the
5 Committee on the Judiciary then Finance.]
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10 A BILL to amend and reenact §37-13A-1 and §37-13A-2 of the Code of
11 West Virginia, 1931, as amended, all relating to clarifying
12 requirements and procedures for access to cemeteries and grave
13 sites located on private land; authorizing agents of family
14 members or decedents to access private cemeteries or grave
15 sites; and clarifying that maintaining the grave site or
16 cemetery includes the installation of monuments or grave
17 markers.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §37-13A-1 and §37-13A-2 of the Code of West Virginia,
20 1931, as amended, be amended and reenacted, all to read as follows:

21 **ARTICLE 13A. GRAVES LOCATED UPON PRIVATELY OWNED LANDS.**

22 **§37-13A-1. Access of certain persons to cemeteries and graves**
23 **located on private land.**

24 (a) Any authorized person who wishes to visit a cemetery or

1 grave site located on privately owned land and for which no public
2 ingress or egress is available, shall have the right to reasonable
3 ingress or egress for the purposes described in subsection (b)
4 after providing the owner of the privately owned land with
5 reasonable notice as defined in section two of this article.

6 (b) The right of access to cemeteries or grave sites provided
7 in subsection (a) shall be during reasonable hours and only for the
8 purposes of:

9 (1) Visiting graves;

10 (2) Maintaining the grave site or cemetery, including the
11 installation of monuments or grave markers;

12 (3) Burying a deceased person in a cemetery plot by those
13 granted rights of burial to that plot; and

14 (4) Conducting genealogy research.

15 (c) (1) The access route to the cemetery or grave site may be
16 designated by the landowner if no traditional access route is
17 obviously visible by a view of the property. If no traditional
18 access route is obviously visible by a view of the property, the
19 landowner is not required to incur any expense in improving a
20 designated access route.

21 (2) Unless the property owner has caused a traditional access
22 route to the cemetery or grave site to be unusable or unavailable,
23 the property owner is not required to make any improvements to
24 their property to satisfy the requirement of providing reasonable
25 ingress and egress to a cemetery or burial site pursuant to this

1 section.

2 (d) A property owner who is required to permit authorized
3 persons reasonable ingress and egress for the purpose of visiting
4 a cemetery or grave site and who acts in good faith and in a
5 reasonable manner pursuant to this section is not liable for any
6 personal injury or property damage that occurs in connection with
7 the access to the cemetery or grave site.

8 (e) Nothing in this section shall be construed to limit or
9 modify the power or authority of a court in any action of law or
10 equity to order the disinterment and removal of the remains from a
11 cemetery and interment in a suitable location.

12 **§37-13A-2. Definitions.**

13 In this article:

14 (1) "Authorized person" means:

15 (A) A family member, close friend or descendant of a deceased
16 person, or an agent who has the written permission of a family
17 member or descendant;

18 (B) A cemetery plot owner; or

19 (C) A person engaged in genealogy research.

20 (2) "Governmental subdivision" means any county commission or
21 municipality.

22 (3) "Reasonable ingress and egress" or "reasonable access"
23 means access to the cemetery or grave site within ten days of the
24 receipt of written notice of the intent to visit the cemetery or
25 grave site. If the property owner cannot provide reasonable access

1 to the cemetery or grave on the desired date, the property owner
2 shall provide reasonable alternative dates when the property owner
3 can provide access within five days of the receipt of the initial
4 notice.

5 (4) "Reasonable notice" means written notice of the date and
6 time the authorized person intends to visit the cemetery or grave
7 site delivered to the property owner at least ten days prior to the
8 date of the intended visit.

NOTE: The bill clarifies certain provisions related to access to cemeteries and grave sites located on private land by authorizing agents of family members or decedents to access private cemeteries or grave sites. Additionally, the bill clarifies that maintaining the grave site or cemetery includes the installation of monuments or grave markers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.