

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 559

BY SENATORS GRADY AND LINDSAY

[Introduced March 4, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §37-13A-1 of the Code of West Virginia, 1931, as amended, relating
2 to protecting landowners who allow others to access cemeteries from their private property
3 or roadway; and ensuring that those persons who damage private property are solely
4 responsible for any costs of repair associated therein.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. GRAVES LOCATED UPON PRIVATELY OWNED LANDS.

**§37-13A-1. Access of certain persons to cemeteries and graves located on private land;
limiting liability of landowners.**

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

6 (b) An authorized person intending to visit the cemetery or grave site for the purpose of
7 installing a monument or grave marker pursuant to subdivision (2), subsection (c) of this section,
8 shall give reasonable notice to the property owner which is to include a description of the
9 monument or grave marker to be installed. As used in this article, "reasonable notice" means
10 written notice of the date and time the authorized person intends to visit the cemetery or grave
11 site delivered to the property owner at least ten days prior to the date of the intended visit.

12 (c) The right of access to cemeteries or grave sites provided in subsection (a) of this
13 section shall be during reasonable hours and only for the purposes of:

14 (1) Visiting graves;

15 (2) Maintaining the grave site or cemetery, including the installation of a monument or a
16 grave marker: *Provided*, That a property owner may deny access to the cemetery or grave site
17 because the owner objects to the installation of the type or style of the monument or grave marker
18 that has been described in the notice given pursuant to subsection (b) of this section;

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

21 (4) Conducting genealogy research.

22 (d)(1) The access route to the cemetery or grave site may be designated by the landowner
23 if no traditional access route is obviously visible by a view of the property. If no traditional access
24 route is obviously visible by a view of the property, the landowner is not required to incur any
25 expense in improving a designated access route.

26 (2) Unless the property owner has caused a traditional access route to the cemetery or
27 grave site to be unusable or unavailable, the property owner is not required to make any
28 improvements to their property to satisfy the requirement of providing reasonable ingress and
29 egress to a cemetery or burial site pursuant to this section.

30 (e) A property owner who is required to permit authorized persons reasonable ingress and
31 egress for the purpose of visiting a cemetery or grave site and who acts in good faith and in a
32 reasonable manner pursuant to this section is not liable for any personal injury or property damage
33 that occurs in connection with the access to the cemetery or grave site.

34 (f) Nothing in this section shall be construed to limit or modify the power or authority of a
35 court in any action of law or equity to order the disinterment and removal of the remains from a
36 cemetery and interment in a suitable location.

37 (g) There shall be legal protection afforded for an owner of private property when a person
38 or person visiting a cemetery causes damage to that property. Landowners are not liable for
39 damages to their land caused by individuals visiting the private cemetery adjacent to their
40 property, and it shall be the sole responsibility of the person or persons visiting the cemetery to
41 repair any damages caused to either the private property or the cemetery adjacent.

NOTE: The purpose of this bill is to provide protection to owners of private property who allow others to use their property to access cemeteries.

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