

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4008

By Delegate Summers

[Introduced February 13, 2024; 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 amending the time required for providing notice of an entry on to land for visiting a grave
 3 from ten days to three.

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.

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~~ §37-13A-
 4 1(c) after providing the owner of the privately owned land with reasonable notice as defined
 5 provided in subsection (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 §37-13A-1(c)(2), shall give reasonable notice to the property owner which is to include a
 9 description of the monument or grave marker to be installed. As used in this article, "reasonable
 10 notice" means written notice of the date and time the authorized person intends to visit the
 11 cemetery or grave site delivered to the property owner at least ~~ten~~ three days prior to the date of
 12 the intended visit.

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

15 (1) Visiting graves;

16 (2) Maintaining the grave site or cemetery, including the installation of a monument or a
 17 grave marker: *Provided*, That a property owner may deny access to the cemetery or grave site
 18 because the owner objects to the installation of the type or style of the monument or grave marker
 19 that has been described in the notice given pursuant to ~~subsection (b) of this section~~ §37-13A-
 20 1(b).

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

23 (4) Conducting genealogy research.

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

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

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

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

NOTE: The purpose of this bill is to change the time required for providing notice of an entry on to land for visiting a grave from ten days to three.

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