

# SENATE BILL REPORT

## SHB 1951

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As Reported By Senate Committee On:  
State & Local Government, March 25, 1999

**Title:** An act relating to abandoned cemeteries.

**Brief Description:** Protecting remains in abandoned cemeteries.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Lantz, DeBolt, Miloscia, McDonald, Stensen and Santos).

**Brief History:**

**Committee Activity:** State & Local Government: 3/24/99, 3/25/99 [DPA].

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### SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

**Majority Report:** Do pass as amended.

Signed by Senators Patterson, Chair; Gardner, Vice Chair; Haugen, Horn and Kline.

**Staff:** Diane Smith (786-7410)

**Background:** For most purposes, state law defines a "cemetery" as a place that is dedicated for burial or interment of human remains. Dedication requires filing of a map or plat of the cemetery property and a written declaration that the property is to be used exclusively for cemetery purposes.

Once property has been dedicated, the dedication can be removed by a superior court decree. Removal of dedication may be ordered if proof is shown that:

- there are no interments remaining on the property; and
- at least 60 days' notice of the proposed removal of dedication was given the cemetery board.

An "abandoned" cemetery is one for which:

- the county assessor can find no record of an owner; or
- the last known owner is dead and the land has not been conveyed to a new owner; or
- the company or organization that ran the cemetery has disbanded, been dissolved, or otherwise ceased to exist, and the land has not been conveyed to a new owner.

For purposes of "abandoned" cemeteries, a "cemetery" includes any place where five or more human remains are buried. If no boundaries for the cemetery are recorded with the county assessor, the boundaries of an abandoned cemetery are 10 feet in all directions from

each burial site. An abandoned cemetery is considered "permanently dedicated," subject to the removal of dedication provisions described above.

Human remains may be removed from a cemetery with the consent of the operator of the cemetery and the consent of a surviving family member. If consent cannot be gotten, the superior court may allow the removal of the remains, but only if removal does not violate the terms of a contract or the rules of the cemetery.

As a practical matter, however, many older burial sites have never been formally dedicated or catalogued and are subject to destruction without notice.

**Summary of Amended Bill:** If any person knows of a cemetery that has not been legally dedicated, he or she may file a notice of abandoned cemetery document with the county auditor. This notice is indexed to the name of the owner of the property and to the name of the person who executed the document.

Before dedication of a cemetery is removed, at least 60 days' notice must be given to the Office of Archaeology and Historic Preservation before the matter is filed in superior court. This notice of proposed removal must be recorded with the county auditor.

**Amended Bill Compared to Substitute Bill:** The striking amendment provides for the filing of the notice of abandoned cemetery document and clarifies the role of the county auditor.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This is a constituent-driven bill which corrects an omission in the statutes that fails to acknowledge abandoned cemeteries. This is a technical amendment but very important to genealogists, historians and the Office of Archaeology and Historic Preservation. It allows recording of abandoned cemeteries at the local level where the information can best be used. It does not create a lien or cloud the title.

**Testimony Against:** None.

**Testified:** PRO: Jean Ameluxen, CTED; Bob Terwilliger, WA State County Auditors Assn.