

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H2/23/99 H3/11/99 S4/7/99

# A Bill

HOUSE BILL 1609

5 By: Representative Elliott  
6  
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## For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
10 REGARDING CEMETERIES; AND FOR OTHER PURPOSES."

### Subtitle

13 "TO AMEND VARIOUS SECTIONS OF THE  
14 ARKANSAS CODE REGARDING CEMETERIES."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 5-39-212 is amended to read as follows:  
20 "5-39-212. Cemeteries - Access - Debris - Disturbance.

21 (a) It shall be unlawful for any person, firm, corporation,  
22 partnership, or association to:

23 (1) (A) Construct any fence or like barrier on any property in  
24 such manner as to enclose any cemetery unless suitable access by automobile to  
25 the cemetery is provided by gate or otherwise.

26 (B) The word 'cemetery', as used in this subsection, is not  
27 intended to apply to any private family burial plot which contains fewer than  
28 six (6) ~~commercial graves markers~~ and has not been used for burial purposes  
29 for at least twenty-five (25) years and which has not had an access road to  
30 the burial plot for at least thirty (30) years.

31 (C) Nothing in this section prohibits the placement of a  
32 fence around any cemetery for the purpose of defining boundaries or protection  
33 of grave sites;

34 (2) Create any obstacle or situation that has the effect of  
35 obstructing access to any cemetery;

36 (3) Allow livestock to range freely in any cemetery;

1           (4) Pen livestock in any cemetery;

2           (5) Use a cemetery, or any part of it, as a dump site.

3           (b) Any person, firm, corporation, partnership, or association  
4 violating any of the provisions of this section shall be guilty of a  
5 misdemeanor and upon conviction shall be fined in any sum not less than ten  
6 dollars (\$10.00) nor more than one hundred dollars (\$100), and every day that  
7 the violation shall exist shall be a separate offense."

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9           SECTION 2. Arkansas Code 5-39-401 is amended to read as follows:

10          "5-39-401. Destruction or removal.

11          It is unlawful for any person to destroy or carry away any cemetery  
12 marker or grave marker except as might be done by caretakers."

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14          SECTION 3. Arkansas Code 14-14-812 is amended to read as follows:

15          "14-14-812. Cemetery access roads.

16          "(a) A 'cemetery', as used in this section, means any burying place for  
17 the dead, a burial plot, a graveyard, or any land, public or private,  
18 dedicated and used for the interment of human remains which includes at least  
19 six (6) graves ~~markers~~.

20          (b)(1) The county judges of the several county governments in Arkansas  
21 shall be authorized to improve and maintain any roads across public or private  
22 lands used or to be used for access to a cemetery.

23          (2) The cemetery access roads shall be constructed to a standard  
24 and nature to permit their use by automobiles."

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26          SECTION 4. Arkansas Code 14-54-803 is amended to read as follows:

27          "14-54-803. Power to require burial outside municipal limits.

28          (a) Cities of the first and second class and incorporated towns shall  
29 have the power to prohibit the burial of the dead within their limits.

30          (b)(1) *Where old and abandoned burial grounds which are no longer kept*  
31 *up or used as such are situated within the limits of any such city or*  
32 *incorporated town, it may, by suitable ordinance, require persons having dead*  
33 *buried therein to cause them, within some reasonable time, to be removed and*  
34 *buried beyond the limits of the city or incorporated town.*

35          (2) *In the event the bodies are not removed within the time*  
36 *specified in the ordinance of the city or incorporated town, after the*

1 ordinance has been published in the mode and manner prescribed by law, then  
 2 the city or incorporated town may itself have the remains of all such persons  
 3 as can be found removed and buried, as provided in this section. It may then  
 4 and not before, by proper ordinance, vacate the cemetery or burial ground and  
 5 declare that it is not any longer a cemetery exclusively used as such.  
 6 Thereafter, the property shall become subject to taxation like other  
 7 property."

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9 SECTION 5. All provisions of this act of a general and permanent nature  
 10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 11 Revision Commission shall incorporate the same in the Code.

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13 SECTION 6. If any provision of this act or the application thereof to  
 14 any person or circumstance is held invalid, such invalidity shall not affect  
 15 other provisions or applications of the act which can be given effect without  
 16 the invalid provision or application, and to this end the provisions of this  
 17 act are declared to be severable.

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19 SECTION 7. All laws and parts of laws in conflict with this act are  
 20 hereby repealed.

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/s/ Elliott

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