

ALABAMA CEMETERY PRESERVATION ALLIANCE

NOTE: This paper is for reference purposes only and does not constitute legal advice.

The ALABAMA CRIMINAL CODE and CEMETERIES

The Criminal Code and Cemeteries: Sections 13A-7-23.1, 13A-11-12 and 13A-11-13 of the Alabama Criminal Code provides the following relative to protecting cemeteries. Please note that *willfully* violating this law has the same weight as *maliciously* doing harm to the cemetery. Also note that subsections (c) and (d) define a strong roll for the Alabama Historical Commission (AHC). However, the AHC is not a law enforcement agency and any report of damage to a cemetery should be reported to the municipal or county law officials for further investigation and action.

Section 13A-7-23.1 Desecration, defacement, etc., of memorial of dead; invasion or mutilation of corpse.

(a) Any person who willfully or maliciously injures, defaces, removes, or destroys any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or any enclosure for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead, or any person who willfully and wrongfully or maliciously destroys, removes, cuts, breaks, or injures any tree, shrub, plant, flower, decoration, or other real or personal property within any cemetery or graveyard shall be guilty of a Class A misdemeanor.

(b) Any person who willfully or maliciously desecrates, injures, defaces, removes, or destroys any tomb, monument, structure, or container of human remains, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, and invades or mutilates the human corpse or remains shall be guilty of a Class C felony and upon conviction the person shall be punished as provided by law.

(c) The provisions of subsections (a) and (b) shall not apply to any person holding a permit issued by the Alabama Historical Commission pursuant to subsection (d), to anyone operating a cemetery under standard rules and regulations and maintenance procedures, or to any person otherwise authorized by law to remove or disturb a tomb, monument, grave marker, burial mound, earthen or shell monument, or similar structure, or its contents, as described in subsections (a) and (b), nor shall subsections (a) and (b) apply to any person authorized to take any action on municipal property.

(d) The Alabama Historical Commission, to provide for the lawful preservation, investigation, restoration, or relocation of human burial remains, human skeletal remains, or funerary objects, shall promulgate rules and regulations for the issuance of a permit and may issue a permit to persons or companies who seek to restore, preserve, or relocate human burial remains, human skeletal remains, funerary objects, or otherwise disturb, a place of burial.

Section 13A-11-12 Desecration of venerated objects.

(a) A person commits the crime of desecration of venerated objects if he intentionally:

- (1) Desecrates any public monument or structure or place of worship or burial; or
- (2) Desecrates in a public place the United States or Alabama flag or any other object of veneration by the public or a substantial segment thereof.

(b) Desecration of venerated objects is a Class A misdemeanor.

Section 13A-11-13 Abuse of corpse.

(a) A person commits the crime of abuse of a corpse if, except as otherwise authorized by law, he

knowingly treats a human corpse in a way that would outrage ordinary family sensibilities. Abuse of a corpse may include knowingly and willfully signing a certificate as having embalmed, cremated, or prepared a human body for disposition when, in fact, the services were not performed as indicated.
(b) Abuse of a corpse is a Class C felony.

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