

1 H.281

2 Introduced by Representatives Clarkson of Woodstock, Marek of Newfane,  
3 Adams of Hartland, Ainsworth of Royalton, Andrews of  
4 Rutland City, Branagan of Georgia, Canfield of Fair Haven,  
5 Courcelle of Rutland City, Devereux of Mount Holly, Evans of  
6 Essex, Frank of Underhill, French of Randolph, Grad of  
7 Moretown, Howrigan of Fairfield, Jerman of Essex, Kitzmiller  
8 of Montpelier, Krawczyk of Bennington, Lorber of Burlington,  
9 Macaig of Williston, Martin of Wolcott, Masland of Thetford,  
10 McNeil of Rutland Town, Mitchell of Barnard, Pellett of  
11 Chester, Potter of Clarendon, Shand of Weathersfield, Smith of  
12 Mendon, Stevens of Shoreham, Sweaney of Windsor, Taylor of  
13 Barre City, Toll of Danville and Zenie of Colchester

14 Referred to Committee on

15 Date:

16 Subject: Health; burials; removal of remains

17 Statement of purpose: This bill proposes to expand the list of persons who can  
18 object to the removal of bodily remains and to create new provisions for the  
19 removal of remains from historic burial sites.

1           An act relating to the removal of bodily remains

2           It is hereby enacted by the General Assembly of the State of Vermont:

3           Sec. 1. 18 V.S.A. § 5212 is amended to read:

4           § 5212. PERMIT TO REMOVE DEAD BODIES

5           (a) A person desirous of disinterring or removing the body of a human  
6           being from one cemetery to another cemetery or to another part of the same  
7           cemetery or from a tomb or receiving vault elsewhere shall apply to the town  
8           clerk of the town where such dead body is interred or entombed for a removal  
9           permit.

10          (b) An applicant for a removal permit shall publish notice of his or her  
11          intent to remove the remains. This notice shall be published for two successive  
12          weeks in a newspaper of general circulation in the town in which the body is  
13          interred or entombed. The notice shall include a statement that the spouse,  
14          child, parent ~~or~~ sibling, or descendant of the deceased or the cemetery  
15          commissioner or other municipal authority responsible for cemeteries in such  
16          town may object to the proposed removal by filing a complaint in the probate  
17          court of the district in which the body is located as provided in section 5212a  
18          of this title.

1 (c) The town clerk shall issue a removal permit 45 days after the date on  
2 which notice was last published pursuant to subsection (b) of this section or, if  
3 an objection is made pursuant to section 5212a, upon order of the court.

4 (d) Notwithstanding the provisions of subsections (b) and (c) of this  
5 section, a removal permit shall be issued upon application:

6 (1) when removal is necessary because of temporary entombment; or

7 (2) to a federal, state, county, or municipal official acting pursuant to  
8 official duties; or

9 (3) if the applicant has written permission to remove the remains from  
10 all persons entitled to object under section 5212a of this title.

11 (e) The provisions of this section shall not apply to the removal of remains  
12 from an historic burial site. For purposes of this section, "historic burial site"  
13 means any tract of land within any municipality which has been used or has  
14 been in existence as a burial ground for more than 100 years.

15 Sec. 2. 18 V.S.A. § 5212a is amended to read:

16 § 5212a. REMOVAL; OBJECTIONS

17 (a) Unless removal is otherwise authorized by law, a spouse, child, parent  
18 ~~or~~, sibling, or descendant of the deceased or the cemetery commissioner or  
19 other municipal authority responsible for cemeteries in the town in which the  
20 remains are interred or entombed may, within 30 days after the date notice was  
21 last published under section 5212 of this title, object to the proposed removal

1 by filing a complaint and a copy of the application in the probate court of the  
2 district in which the body is interred or entombed. A copy of the complaint  
3 shall be filed with the clerk of the town where the body is interred or entombed  
4 and shall be mailed to the applicant for the removal permit.

5 (b) The probate court shall, after hearing, issue its order authorizing  
6 removal of the body unless:

7 (1) removal would be contrary to the expressed intent of the deceased;

8 or

9 (2) removal is objected to by the surviving spouse of the deceased; or

10 (3) removal is objected to by an adult son or daughter of the deceased  
11 and there is no surviving spouse of the deceased; or

12 (4) removal is objected to by a parent of the deceased and there is no  
13 surviving spouse or son or daughter of the deceased; or

14 (5) removal is objected to by an adult sibling of the deceased and there  
15 is no surviving spouse, son or daughter, or parent of the deceased; or

16 (6) removal is objected to by a descendant of the deceased and there is  
17 no surviving spouse, son or daughter, parent, or adult sibling of the deceased;

18 or

19 (7) the removal is objected to by the cemetery association or other  
20 municipal cemetery authority responsible for cemeteries in the town in which

1 the remains are interred or entombed, and there is no surviving spouse, son or  
2 daughter, parent, adult sibling, or known descendant of the deceased.

3 Sec. 3. 18 V.S.A. § 5217 is added to read:

4 § 5217. REMOVAL OF REMAINS FROM HISTORIC BURIAL SITES

5 (a) As used in this section:

6 (1) "Historic burial site" means any tract of land within any municipality  
7 which has been used or has been in existence as a burial ground for more than  
8 100 years.

9 (2) "Public good" means that which shall be for the greatest benefit of  
10 the people of the state of Vermont.

11 (3) "Remains" means human remains or cremated remains and does not  
12 include a vaulted casket burial.

13 (4) "Removal" means to remove remains completely from one location  
14 and transfer them to another location.

15 (b) A person desirous of disinterring or removing the body of a human  
16 being from an historic burial site shall apply for a removal permit to the town  
17 clerk for the town in which the historic burial site is located. The application  
18 shall:

19 (1) Identify the specific location and marking of the remains. For  
20 nonvaulted remains, the application shall identify the location and marking  
21 using standard archeological procedures.

1           (2) State the specific location in which the remains will be reburied.

2           (3) State the purpose for the removal of the remains, including a  
3 statement of the public good resulting from such removal.

4           (c) An applicant for a removal permit to disinter or remove a body from an  
5 historic burial site shall publish notice of his or her intent to remove the  
6 remains for two successive weeks in a newspaper of general circulation in the  
7 town in which the historic burial site is located. The applicant shall also send  
8 notice by first-class mail to:

9           (1) the cemetery commissioner or other municipal authority responsible  
10 for cemeteries in the town in which the historic burial site is located;

11           (2) all historical societies located within the town in which the historic  
12 burial site is located;

13           (3) the district environmental commission for the district in which the  
14 historic burial site is located;

15           (4) the Vermont Old Cemetery Association; and

16           (5) the Vermont Cemetery Association.

17           (d)(1) One or more of the following may object to the proposed removal by  
18 filing an objection in the probate court of the district in which the historic  
19 burial site is located within 60 days after the date the notice was last published  
20 as required by subsection (c) of this section:

1           (A) the cemetery commissioner or other municipal authority  
2 responsible for cemeteries in the town in which the historic burial site is  
3 located.

4           (B) the Vermont Historical Society.

5           (C) the Vermont Old Cemetery Association.

6           (D) the Vermont Cemetery Association.

7           (E) any veterans' organization operating within the county in which  
8 the historic burial site is located.

9           (2) A copy of the objection shall also be sent to the town clerk for the  
10 town in which the historic burial site is located.

11           (e) If no objection is received within 60 days after the date the notice was  
12 last published as required by subsection (c) of this section, the town clerk shall  
13 issue a removal permit.

14           (f) If the probate court receives an objection within the 60-day period, the  
15 court shall notify the town clerk for the town in which the historic burial site is  
16 located and shall schedule a hearing on whether to allow removal of the  
17 remains described in the application.

18           (g) The probate court may, after hearing, order the town clerk to grant or  
19 deny a permit for removal of the remains. As part of its consideration, the  
20 court shall take into account whether such removal would be contrary to the  
21 public good.

1        (h) Upon the grant of a removal permit by the town clerk, the applicant  
2        shall remove the remains as follows:

3                (1) All remains shall be removed by a standard archeological process.

4                (2) The removal process shall include the remains, all markers, and all  
5        relevant funeral-related materials associated with the burial site.

6                (3) The applicant shall bear all costs associated with the removal  
7        process.

8        Sec. 4. EFFECTIVE DATE

9        This act shall take effect upon passage.