

H.41 – OFFICE OF THE DEFENDER GENERAL

January 24, 2025

H.4 I – ABUSE OF A CORPSE

§ 2312. ABUSE OF A CORPSE

(a) A person is guilty of abuse of a corpse if the person, without legal authorization, knowingly:

(1) transports, buries, or otherwise hides a corpse; or

(2) burns, mutilates, disfigures, dismembers, or otherwise destroys a corpse.

(b) A person is guilty of aggravated abuse of a corpse if the person intentionally:

(1) transports, buries, or otherwise hides a corpse to conceal a crime or avoid apprehension, prosecution, or conviction of a crime;

(2) burns, mutilates, disfigures, dismembers, or otherwise destroys a corpse to conceal a crime or avoid apprehension, prosecution, or conviction of a crime; or

(3) perpetrates or attempts to perpetrate sexual assault against a corpse.

(c)

(1) A person who commits the crime of abuse of a corpse shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both.

(2) A person who commits the crime of aggravated abuse of a corpse shall be imprisoned for not less than five years and a maximum term of 10 years and may be fined not more than \$10,000.00.

THE AGGRAVATED OFFENSES ARE NOT NECESSARY

- Review of caselaw and interviews with the longest-serving public defenders in Vermont: no evidence of a case that could be prosecutable under the proposed aggravated abuse of corpse offense that was not punishable as another serious felony.
- Several cases involving the conduct addressed in the aggravated offense section of the statute were resolved through determinations of insanity or incompetence which would not be affected by the new law.
- Nobody could think of a case where a person evaded significant punishment for any of the conduct prohibited by the aggravated abuse section of the proposed bill.

THE AGGRAVATED OFFENSES ARE NOT NECESSARY

- Any case where a person conceals, hides, buries, burns, or mutilates a body in order to conceal evidence of a crime is Obstruction of Justice which is a 10 year felony.
- Any case where a person other than the person who committed the killing conceals, hides, burns, or mutilates a body in order to conceal evidence is a crime of accessory to the offense or an accessory after the fact, both of which are punishable “as a principal offender.”
- In the case of desecration of the body, nobody is aware of such a case where the offender was not also charged with the murder.

THE NON-AGGRAVATED PENALTY IS TOO HIGH

Private Property Burials

In the End of Life Decisions section:

[Patient Choice and Control at End of Life](#) | [Private Property Burials](#)

Caring for Your Own

Vermont law allows families to care for their own dead. This includes transporting the deceased and funerals and burials on private property. You are not required to have a licensed funeral director involved in making or carrying out final arrangements. Embalming is not required by law, but you should consider weather and reasonable planning so that disposition is carried out in a timely manner.

If you have been caring for someone with a communicable disease, the same health precautions you took during care apply after death. No extraordinary measures are necessary. **If death occurs from a rarer infectious disease**, like meningitis or a tropical fever, you should consult the Health Department's Infectious Disease Unit at 888-588-7781. Immediate burial or direct cremation may be recommended in such cases.

- > **Preliminary report of death**
- > **Burial transit**
- > **Burial**

THE NON-AGGRAVATED OFFENSE ALREADY EXISTS AND CARRIES TOO SEVERE OF A PUNISHMENT

- Turns out, this is already in state law, in Title 7 addressing burials, cremations, and funerals:

Title 18 : Health

Chapter 107 : Deaths, Burials, and Autopsies

Subchapter 001 : GENERAL REQUIREMENTS

(Cite as: 18 V.S.A. § 5211)

§ 5211. Unauthorized burial or removal; penalty

A person who buries, entombs, transports, or removes the dead body of a person without a burial-transit permit so to do, or in any other manner or at any other time or place than as specified in such permit, shall be imprisoned not more than five years or fined not more than \$1,000.00, or both.

(Amended 1969, No. 265 (Adj. Sess.), § 14; 2017, No. 46, § 54, eff. July 1, 2019.)

PROPOSED AMENDMENT

§ 5211. Unauthorized burial or removal; penalty

- (a) A person who intentionally buries, entombs, transports, mutilates, dismembers, or removes the dead body of a person to conceal a crime or avoid apprehension, prosecution, or conviction of a crime, or who otherwise unlawfully desecrates the dead body of a person shall be imprisoned not more than five years and fined not more than \$1000.00 or both.
- (b) A person who buries, entombs, transports the dead body of a person without a burial-transit permit so to do, or in any other manner or at any other time or place than as specified in such permit, shall be subject to a fine of not more than \$1000.00.

PROPOSED AMENDMENT

Felony for disturbing a corpse in order to conceal a crime or for other unlawful desecration of a corpse.

Fine for failing to get the permitting process for family burials incorrect.

18 V.S.A. § 5211. Unauthorized burial or removal; penalty

- (a) A person who intentionally buries, entombs, transports, mutilates, dismembers, or removes the dead body of a person to conceal a crime or avoid apprehension, prosecution, or conviction of a crime, or who otherwise unlawfully desecrates the dead body of a person shall be imprisoned not more than five years and fined not more than \$1000.00 or both.
- (b) A person who buries, entombs, transports the dead body of a person without a burial-transit permit so to do, or in any other manner or at any other time or place than as specified in such permit, shall be subject to a fine of not more than \$1000.00.