

Summary HB 187

Vandalism of Cemeteries and Graves

Under current Alaska Statutes, there are no provisions relating specifically to the vandalism or desecration of modern cemeteries and memorials. One legal opinion is that they are protected under the "Historic Preservation Act", however, persons charged with the maintenance and care of cemeteries are unconvinced that AS 41.35.200 provides for the penalties necessary to protect the safety and dignity of Alaska's cemeteries and memorials from theft, vandalism, or other forms of desecration.

Acts of vandalism are currently punishable under statutes that relate to criminal mischief, however the degree of crime centers around monetary value of the damage and do not recognize the personal insult and emotional injury to a family, community or tribe that is suffered when cemeteries, burial sites or memorials are vandalized.

House Bill 187 clearly states that it is a crime of criminal mischief in the second degree if a person "defaces, damages, or desecrates a cemetery or the contents of a cemetery or a tomb, grave, or memorial regardless of whether the tomb, grave, or memorial is in a cemetery or.....appears to be abandoned, lost or neglected.

The bill also inserts language into statute making it a crime of criminal mischief in the second degree if a person, "removes human remains or associated burial artifacts from a cemetery, tomb, grave or memorial".

Recognizing that there may be circumstances where memorials, tombs or gravesites must be altered, moved or removed, HB 187 places into statute an affirmative defense if the defendant is an employee of the cemetery acting on behalf of the cemetery or; is otherwise authorized by law to engage in the conduct.

Finally, HB 187 defines "contents of a cemetery", "memorial", and "tomb".

Currently, a violation of AS 41.35.200 is a "class A misdemeanor", and if convicted, the person faces a penalty of up to \$5,000.00 fine and one year in prison. With the passage of HB 187, these crimes may be prosecuted as a "class C felony" punishable by a fine of \$50,000.00 and up to 5 years in prison.