

2022 Regular Session

HOUSE BILL NO. 139

BY REPRESENTATIVE ADAMS

PROPERTY/SERVITUDES: Provides relative to access to enclosed cemeteries

1 AN ACT

2 To enact R.S. 9:1258 and R.S. 14:100.2 and to repeal R.S. 9:2800.24(F), relative to public
3 access to certain cemeteries; to provide relative to enclosed cemeteries; to provide
4 for definitions; to provide for civil fines and penalties for failure to allow access; to
5 provide for immunity from civil liability for owners who grant voluntary rights of
6 passage to enclosed cemeteries; to provide for criminal penalties; to repeal
7 population limitations for enforcement; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:1258 is hereby enacted to read as follows:

10 §1258. Enclosed cemeteries; right to public access

11 A. The owner of an adjoining property to an enclosed cemetery shall grant
12 a voluntary right of passage to persons who desire to have access to the enclosed
13 cemetery located within four hundred feet of a public road. The voluntary right of
14 passage may be limited to reasonable times and durations and may follow a path
15 designated by the owner.

16 B. For purposes of this Section:

17 (1) "Adjoining property" means any property, whether contiguous to the
18 enclosed cemetery or not, over which a voluntary right of passage to a public road
19 may be granted.

1 (2) "Enclosed cemetery" means a historic cemetery as defined in R.S.
2 25:933, for which a site record form has been filed with and accepted by the Division
3 of Archaeology within the Department of Culture, Recreation and Tourism, and to
4 which there is no access to a public road other than across adjoining property.

5 (3) "Voluntary right of passage" means a passage of ingress and egress to an
6 enclosed cemetery from a public road which passage is suitable for the kind of
7 traffic, whether pedestrian or vehicular, that is reasonably necessary for access for
8 personal, historic, or other non-commercial purposes. The voluntary right of passage
9 does not include any passage granted in return for payment of any form of
10 consideration to the adjoining landowner.

11 C. Whoever violates the provisions of this Section shall be fined a civil
12 penalty of not more than five hundred dollars. Each day on which a violation occurs
13 shall be considered a separate offense.

14 D. The penalties provided by this Section shall be in addition to any other
15 civil or criminal penalty, action, or proceeding otherwise authorized by law.

16 Section 2. R.S. 14:100.2 is hereby enacted to read as follows.

17 §100.2. Obstructing access to an enclosed cemetery

18 A. No person shall willfully obstruct an individual's right of passage to
19 access any enclosed cemetery located within four hundred feet of a public road. The
20 right of passage may be limited to reasonable times and durations and may follow
21 a path designated by the owner of the adjoining property.

22 B. Whoever violates the provisions of this Section shall be fined not more
23 than five hundred dollars or imprisoned for not more than six months, or both.

24 C. For purposes of this Section:

25 (1) "Adjoining property" means any property, whether contiguous to the
26 enclosed cemetery or not, over which a voluntary right of passage to a public road
27 may be granted.

28 (2) "Enclosed cemetery" means a historic cemetery as defined in R.S.
29 25:933, for which a site record form has been filed with and accepted by the Division

1 of Archaeology within the Department of Culture, Recreation and Tourism, and to
2 which there is no access to a public road other than across adjoining property.

3 (3) "Right of passage" means a passage of ingress and egress to an enclosed
4 cemetery from a public road which passage is suitable for the kind of traffic, whether
5 pedestrian or vehicular, that is reasonably necessary for access for personal, historic,
6 or other non-commercial purposes.

7 Section 3. R.S. 9:2800.24(F) is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 139 Original

2022 Regular Session

Adams

Abstract: Provides for civil and criminal penalties for failure to allow access to an enclosed cemetery.

Proposed law (R.S. 9:1258) provides that owners of adjoining property to an enclosed cemetery shall grant a voluntary right of passage to persons who desire to have access to the enclosed cemetery.

Proposed law (R.S. 9:1258) provides that the right of passage may be limited to reasonable times and durations, and visitors may have to follow a designated path.

Proposed law (R.S. 9:1259) provides for a civil fine of \$500, and provides that each day a violation occurs shall be considered a separate offense.

Proposed law (R.S. 9:1258 and R.S. 14:100.2) is only applicable to enclosed historic cemeteries located within 400 feet of a public road.

Present law (R.S. 25:933) defines "historic cemetery" as any abandoned cemetery located in the state that is more than 50 years old that is not subject to the regulations of the La. Cemetery Board or subject to the La. Unmarked Human Burial Sites Preservation Act.

Proposed law (R.S. 14:100.2) creates the crime of obstructing access to an enclosed cemetery.

Proposed law (R.S. 14:100.2) provides that no person shall willfully obstruct an individual's right of passage to any enclosed cemetery located within 400 feet of a public road.

Proposed law (R.S. 14:100.2) provides that the right of passage may be limited to reasonable times and durations, and visitors may have to follow a designated path.

Proposed law (R.S. 14:100.2) provides for a term of imprisonment, not to exceed six months, a fine of not more than \$500, or both.

Present law (R.S. 9:2800.24) limits liability for owners of property adjoining an enclosed cemetery who grant a voluntary right of passage to persons who desire to have access to an enclosed cemetery.

Present law (R.S. 9:2800.24) provides that owners of property adjoining an enclosed cemetery shall not be liable for any injury, death, loss, or damages to persons using the voluntary right of passage to access the enclosed cemetery.

Present law (R.S. 9:2800.24) provides that the owner of the property owes no duty of care to keep such property safe for entry.

Present law (R.S. 9:2800.24) shall not apply to intentional or grossly negligent acts by the landowner granting the voluntary right of passage.

Present law (R.S. 9:2800.24(F)) is only applicable to an enclosed cemetery located within a parish having a population of more than 50,000 and less than 52,200 according to the latest federal decennial census.

Proposed law repeals the population limitation of present law (R.S. 9:2800.24(F)).

(Adds R.S. 9:1258 and R.S. 14:100.2; Repeals R.S. 9:2800.24(F))