

1 AN ACT
2 relating to the offense of abuse of a corpse and to the offense of
3 criminal mischief in certain circumstances; providing a criminal
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 42.08, Penal Code, is amended to read as
7 follows:

8 Sec. 42.08. ABUSE OF CORPSE. (a) A person commits an
9 offense if the person, without legal authority [~~not authorized by~~
10 ~~law~~], [~~he intentionally or~~] knowingly:

11 (1) disinters, disturbs, damages [~~removes~~], dissects,
12 in whole or in part, carries away, or treats in an [~~a seriously~~]
13 offensive manner a human corpse;

14 (2) conceals a human corpse knowing it to be illegally
15 disinterred;

16 (3) sells or buys a human corpse or in any way traffics
17 in a human corpse; [~~or~~]

18 (4) transmits or conveys, or procures to be
19 transmitted or conveyed, a human corpse to a place outside the
20 state; or

21 (5) vandalizes, damages, or treats in an offensive
22 manner the space in which a human corpse has been interred or
23 otherwise permanently laid to rest.

24 (b) An offense under this section is a Class A misdemeanor.

1 (c) In this section, "human corpse" includes:

2 (1) any portion of a human corpse;

3 (2) the cremated remains of a human corpse; or

4 (3) any portion of the cremated remains of a human
5 corpse.

6 (d) If conduct constituting an offense under this section
7 also constitutes an offense under another section of this code, the
8 actor may be prosecuted under either section or both sections.

9 (e) It is a defense to prosecution under this section that
10 the actor:

11 (1) as a member or agent of a cemetery organization,
12 removed or damaged anything that had been placed in or on any
13 portion of the organization's cemetery in violation of the rules of
14 the organization; or

15 (2) removed anything:

16 (A) placed in the cemetery in violation of the
17 rules of the cemetery organization; or

18 (B) placed in the cemetery by or with the
19 cemetery organization's consent but that, in the organization's
20 judgment, had become wrecked, unsightly, or dilapidated.

21 (f) In this section, "cemetery" and "cemetery organization"
22 have the meanings assigned by Section 711.001, Health and Safety
23 Code.

24 SECTION 2. Article 42.037, Code of Criminal Procedure, is
25 amended by adding Subsection (p) to read as follows:

26 (p)(1) A court shall order a defendant convicted of an
27 offense under Section 28.03(f), Penal Code, involving damage or

1 destruction inflicted on a place of human burial or under Section
2 42.08, Penal Code, to make restitution in the amount described by
3 Subsection (b)(1)(B) to a cemetery organization operating a
4 cemetery affected by the commission of the offense.

5 (2) If a court orders an unemancipated minor to make
6 restitution under Subsection (a) and the minor is financially
7 unable to make the restitution, the court may order:

8 (A) the minor to perform a specific number of
9 hours of community service to satisfy the restitution; or

10 (B) the parents or other person responsible for
11 the minor's support to make the restitution in the amount described
12 by Subsection (b)(1)(B).

13 (3) In this subsection, "cemetery" and "cemetery
14 organization" have the meanings assigned by Section 711.001, Health
15 and Safety Code.

16 SECTION 3. Chapter 54, Family Code, is amended by adding
17 Section 54.049 to read as follows:

18 Sec. 54.049. CONDITIONS OF PROBATION FOR DESECRATING A
19 CEMETERY OR ABUSING A CORPSE. (a) If a juvenile court places on
20 probation under Section 54.04(d) a child adjudicated to have
21 engaged in conduct in violation of Section 28.03(f), Penal Code,
22 involving damage or destruction inflicted on a place of human
23 burial or under Section 42.08, Penal Code, in addition to other
24 conditions of probation, the court shall order the child to make
25 restitution to a cemetery organization operating a cemetery
26 affected by the conduct in an amount equal to the cost to the
27 cemetery of repairing any damage caused by the conduct.

1 (b) If a juvenile court orders a child to make restitution
2 under Subsection (a) and the child is financially unable to make the
3 restitution, the court may order:

4 (1) the child to perform a specific number of hours of
5 community service to satisfy the restitution; or

6 (2) a parent or other person responsible for the
7 child's support to make the restitution in the amount described by
8 Subsection (a).

9 (c) In this section, "cemetery" and "cemetery organization"
10 have the meanings assigned by Section 711.001, Health and Safety
11 Code.

12 SECTION 4. Section 711.0311, Health and Safety Code, is
13 repealed.

14 SECTION 5. The changes in law made by this Act apply only to
15 an offense committed or conduct engaged in on or after the effective
16 date of this Act. An offense committed or conduct engaged in before
17 the effective date of this Act is covered by the law in effect at the
18 time the offense was committed or the conduct was engaged in, and
19 the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed or conduct was
21 engaged in before the effective date of this Act if any element of
22 the offense or conduct was committed or engaged in before that date.

23 SECTION 6. This Act takes effect June 1, 2005, if this Act
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for effect on June
27 1, 2005, this Act takes effect September 1, 2005.

David Dewhurst

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 1012 was passed by the House on May 9, 2005, by the following vote: Yeas 140, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1012 on May 27, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Robert Hancey
Chief Clerk of the House

I certify that H.B. No. 1012 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Letsy Gau
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:20 PM CLOCK

Roger Williams
Secretary of State