

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 36
SENATE BILL 177

AN ACT TO AMEND ARTICLE 10 OF CHAPTER 65 TO ALLOW ACCESS TO
AND MAINTENANCE OF PRIVATE GRAVES AND ABANDONED PUBLIC
CEMETERIES.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 65 reads as rewritten:

"ARTICLE 10.

"Access to and Maintenance of Private ~~Graves.~~
Graves and Abandoned Public Cemeteries.

"§ 65-74. **Entering public or private property to maintain or visit a private grave or an abandoned public cemetery with consent.**

Any of the following ~~persons may,~~ persons, with the consent of the public or private landowner, may enter the property of another to discover, restore, maintain, or visit a private grave: ~~grave or abandoned public cemetery:~~

- (1) A descendant of the person whose remains are reasonably believed to be interred in the grave;
- (2) A descendant's designee; or
- (3) Any other person who ~~was personally acquainted with or~~ has a special personal interest in the ~~deceased.~~ grave or abandoned public cemetery.

"§ 65-75. **Entering public or private property to maintain or visit a private grave or an abandoned public cemetery without consent.**

(a) If the consent of the landowner cannot be obtained, any person listed in G.S. 65-74(1), (2), or (3) may commence a special proceeding by petitioning the clerk of superior court of the county in which he has reasonable grounds to believe the deceased is buried, or in the case of an abandoned public cemetery, in the county in which the abandoned public cemetery is located for an order allowing him to enter the property to discover, restore, maintain, or visit the ~~grave.~~ grave or abandoned public cemetery. The petition shall be verified. This special proceeding shall be in accordance with the provisions of Article 33 of Chapter 1 of the General Statutes. The clerk shall issue an order allowing the petitioner to enter the property if he finds that:

- (1) There are reasonable grounds to believe that the grave or abandoned public cemetery is located on the property or that it is reasonably necessary to enter or cross the landowner's property to reach the ~~grave.~~ grave or abandoned public cemetery;

- (2) The petitioner, or his designee, is a descendant of the deceased, or that the petitioner ~~was personally acquainted with or had~~ has a special interest in the ~~deceased;~~ grave or abandoned public cemetery; and
 - (3) The entry on the property would not unreasonably interfere with the enjoyment of the property by the landowner.
- (b) The clerk's order may:
- (1) Specify the dates and the daylight hours that the petitioner may enter and remain on the property;
 - (2) Grant to the petitioner the right to enter the landowner's property ~~once a month periodically, as specified in the order,~~ after the time needed for initial restoration of the ~~grave;~~ grave or abandoned public cemetery; or
 - (3) Specify a reasonable route from which the petitioner may not deviate in all entries and exits from the property."

Sec. 2. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 15th day of April, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives