

HB

187

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FILE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 187(JUD)
 (H) Publish Date: 4/10/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the destruction, desecration, BRU Criminal Division
and vandalism of cemeteries and graves." Component 1st-4th Judicial Districts
 Sponsor Representative Whitaker
 Requester House Judiciary Committee Component No. 2198-99;2201;61;79

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 187 raises to a class C felony the crimes of defacing, damaging, or desecrating a cemetery or its contents, a tomb, grave, or memorial, or for removing human remains or associated burial artifacts, whether or not the cemetery, tomb, grave, or memorial appears to be abandoned, lost, or neglected. Under current law, these actions are a class A misdemeanor.

The Department of Law does not anticipate a fiscal impact from passage of this legislation. While the prosecution of felonies is much more time and resource intensive than the prosecution of misdemeanors, this crime is relatively uncommon and the department believes it can handle the volume of new felony prosecutions this bill might generate with existing staff.

Prepared by: Joan M. Kasson Phone 465-5370
 Division: Attorney General's Office Date/Time 4/6/01 4:36 PM
 Approved by: Bob Melners for Bruce M. Botelho, Attorney General Date 4/6/01
 Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 187(JUD)
 (H) Publish Date: 4/10/01

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Vandalism of Cemeteries and Graves BRU Alaska Court System
 Component: Trial Courts
 Sponsor Representative Whitakar
 Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB 187.

Prepared by: Douglas Wooliver Phone 463-4750
 Division: Alaska Court System Date/Time 4/06/01 2:30 p.m.
 Approved by: Stephanie Cole Date _____
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 187(JUD)
 (H) Publish Date: 4/10/01

Revision Date/Time (Note if correction):
 Title: "An Act relating to vandalism of cemeteries and graves..."

Dept. Affected: Administration
 BRU: Legal & Advocacy Svc.
 Component: Public Defender Agency

Sponsor: Representative Whitaker
 Requester: (H) Judiciary

Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Page 2 for analysis.

Prepared by: Barbara Brink, Director Phone (907) 334-4414
 Division: Public Defender Agency Date/Time April 6, 2001
 Approved by: Jim Duncan, Commissioner Date 4/6/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

HB 187 Vandalism of Cemeteries and Graves – Fiscal Note Analysis

This bill would make it a felony-level offense to deface, damage, or desecrate a cemetery, tomb, grave, or memorial. The offense would apply even if the cemetery appears to be abandoned. Removing human remains or artifacts would also be illegal.

This bill would have some fiscal impact on the Public Defender Agency. Because this bill covers a broad range of activity and is a felony-level offense, the impact may be substantial. However, there is no way to know how many cases would be brought. Therefore, the Public Defender Agency's is submitting an indeterminate fiscal note.

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.

Municipality of Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-6814

George P. Wuerch, Mayor

MEMORIAL PARK CEMETERY
(535 East 9th Avenue)
<http://www.ci.anchorage.ak.us/cemetery>

April 2, 2001

Representative Jim Whitaker
State Capitol, Room 411
Juneau, AK 99801-1182

The Honorable Jim Whitaker,

Subject: Letter of Support, House Bill No. 187

The Municipality of Anchorage and more specifically the staff of the Anchorage Memorial Park Cemetery offer our support to House Bill Number 187, "An Act relating to the destruction, desecration, and vandalism of cemeteries and graves".

Many of the major acts of destruction, desecration, and vandalism that permeated our cemetery in the past have been mitigated by the 1992 installation of our fence. Still today, the families and friends of our loved ones occasionally suffer the indignity of stolen statues and pushed over headstones. Also, minor acts of vandalism and desecration of graves continue at an alarming rate. Since this is a public cemetery and access is uncontrolled during the day, these acts generally take the form of stealing decorations or moving decorations from one grave to another. Additionally, in the summer we are continually persuading the inebriates who traverse our cemetery not to drink alcoholic beverages or perform "personal" acts on and around the graves.

Purposeful cemetery damage in any form is a disgraceful, cowardly act. We support any action to increase the penalty for these despicable acts perpetrated against the loved ones of our community and hold those responsible at bay.

If I can be of any further assistance in this matter, please don't hesitate to call me at 907-343-6814.

Respectfully,

Donald B. Warden
Cemetery Director

cc: Tim Rogers, MOA Legislative Team



CENTRAL COUNCIL
TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA
ANDREW P. HOPE BUILDING
320 West Willoughby Avenue • Suite 300
Juneau, Alaska 99801-9983

April 10, 2001

The Honorable Jim Whitaker
Alaska State Representative
State Capitol, Room 411
Juneau, AK 99801-1182


Dear Representative Whitaker:

The Central Council of Tlingit and Haida Indian Tribes of Alaska supports HB 187, "An Act relating to the destruction, desecration, and vandalism of cemeteries and graves."

As Native people, our ancestors and their burial sites are sacred to us. Any malicious destruction or vandalism to our graves, whether in a western cemetery or not, is emotionally painful. We appreciate your effort to strengthen the penalty for violating AS 41.35.200 from a class A misdemeanor to a class C felony, and hope the passage of this bill discourages future acts of desecration to cemeteries and other burial sites.

Thank you for introducing this legislation. Please feel free to contact me if you wish to discuss HB 187 or any other issues.

Sincerely,



for Edward K. Thomas
President



Sitka Tribe of Alaska
Tribal Government for Sitka, AK

Fax Transmission

To: Rep. Whitaker

Company: State of Alaska

Fax # 465-2070

Date: 4/4/01

From: Bob Sam

of Pages 2 Including Cover

Re: H. B. 187

Message

I am interested in
testifying in person to
support this very
important bill. Thank you
for sponsoring this bill.

Bob Sam

To: Rep. Jim Whitaker
Alaska State Capitol Room 411
Juneau, Alaska 99801

Re: HB 187

Dear Sir:

I am very interested in going on record in support of HB 187. "An act relating to the destruction, desecration, and vandalism of cemeteries and graves."

I am involved with the restoration, preservation, and protection of cemeteries and gravesites in Alaska. Since 1986 I have restored over 15 historical cemeteries and received the 1988 volunteer of year award from the State of Alaska for this service. I have also received recognition locally, statewide, nationally and internationally for my work in this area. Therefore I feel that I have many years of first hand experience in cemetery preservation and maintenance.

Sir, for many years, vandalism, desecration, and cemetery destruction has taken its toll on cemeteries and gravesites all across Alaska. On a daily basis cemeteries and gravesites are disappearing due to neglect and destruction. When a community neglects its historical gravesites and ignores their duty to preserve, protect, and honor their ancestors a grave concern occurs as some community members begin to feel that it is ok to vandalize and destroy our sacred cultural heritage sites.

Another grave concern is theft of grave artifacts associated with cemetery desecration and neglect. Currently there is a lucrative market of Alaska Native artifacts and headstones with Alaska Native symbols on them. As a caretaker of cemeteries and sacred sites often I have to tell family members that their ancestors were desecrated and/or destroyed from vandals. The families of the deceased are victims of this abuse and often times their pleas go unnoticed as there are few laws in Alaska that relates to the desecration, destruction, and vandalism of cemeteries and graves.

Rep. Whitaker, thank you for sponsoring HB 187 this bill will help to preserve, protect and honor our ancestors for many years to come. I fully support HB 187 on grave concerns.

Respectfully



Robert Sam
Cemetery Caretaker
Sitka Alaska



CITY OF

FAIRBANKS

March 27, 2001

Representative Jim Whitaker
 Alaska State Capital
 Room 411
 Juneau, AK 99801-1182

Re: House Bill 187

Dear Honorable Representative Whitaker:

I am writing you in support of your sponsorship of House Bill 187. Your proposed bill will be a deterrent and a protector for the City of Fairbanks' cemeteries, and for all cemeteries throughout Alaska.

As you are well aware, the City of Fairbanks is responsible for Clay Street Cemetery and for Birch Hill Cemetery. In the past, there have been numerous occasions where graves and monuments of the deceased, as well as, personal items belonging to families of the deceased have been vandalized, stolen, or desecrated. Clay Street Cemetery, a historical site where many "old timers" have been laid to rest, has unfortunately been vandalized repeatedly. For example, Mary Pedro, Felix Pedro's wife has had her headstone broken, painted, and removed many times by vandals. Birch Hill, the city's current and active cemetery has also experienced numerous vandal attacks. Deterring this destructive behavior has been difficult with the current laws. Also, our budgetary situation eliminates any possibility of placing a 24-hour guard at these locations.

As the "Cemetery Desecration Laws in Other States" report explains, there are currently Federal laws protecting certain sections of cemeteries, i.e., the Archaeological Resources Protection Act of 1979, the Native American Graves Protection and Repatriation Regulations Act of 1990, and the Veterans' Cemeteries Protection Act of 1997. However, your House Bill 187 will be a deterrent to all vandals, in all sections, of Alaskan cemeteries. Once enacted, your bill will change the law for those people obtaining perverse enjoyment by desecrating a cemetery, from a misdemeanor to committing a crime of criminal mischief in the second degree.

Representative Whitaker, since Alaska is a multi-cultural state, I trust you will share with your fellow representatives the importance of individuals expressing their cultural heritage through their various ways of grieving and burying their deceased. Additionally, I urge your colleagues, in the House of Representatives, to understand the monetary value associated with the loss of a family member is nil, when compared to the emotional loss a family suffers when a loved one passes and later discovers the grave site has been

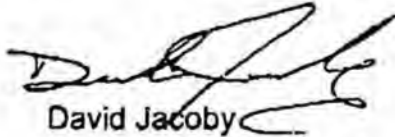
the GOLDEN HEART CITY ... "extremely Alaska"
 800 Cushman Street • Fairbanks, Alaska 99701-4615

desecrated. It is appalling that these misguided people who have desecrated burial sites are only charged with a misdemeanor. That is why I urge your colleagues to support House Bill 187 to change the law from a misdemeanor, to committing a crime of criminal mischief in the second degree for deplorable behavior relating to the destruction, desecration, and vandalism of cemeteries and graves.

Thank you for your continued support of the City of Fairbanks and the great State of Alaska.

Respectfully,

CITY OF FAIRBANKS



David Jacoby
Public Works Director
2121 Peger Road
Fairbanks, AK 99709
(907) 459-6896