

**HB**

**187**



April 17, 2001

The Honorable Jim Whittaker  
M/S 3100  
Room 411  
Juneau, AK 99801

Dear Representative Whittaker:

I want to compliment you for the introduction House Bill 187. Sealaska Corporation is a Regional Native Corporation representing over 16,000 Alaska Native shareholders. Sealaska manages numerous historic and cemetery sites that occur on its land and works very closely with the United States Forest Service on the management and protection of cemeteries, grave sites and other cultural resources through out the region.

Our experience is that there is a dearth of public awareness of these sites, their value and that they should be protected knowledge where ever they exist. Throughout the region cemetery and grave sites are replete with examples of vandalism and other disregard for the importance of these sites. We believe that this legislation performs a most important function of highlighting for the public the need to protect cemeteries and graves sites and to ensure that there is a consequence for abuse of these types sites .

We encourage your consideration of this legislation.

Sincerely,

SEALASKA CORPORATION

A handwritten signature in black ink, appearing to read "R. Harris", written over a horizontal line.

Richard P. Harris  
Senior Vice President Natural Resources

cc: Chris McNeil  
Ross Soboleff



CENTRAL COUNCIL  
tlingit and haida indian TRIBES of alaska  
ANDREW P. HOPE BUILDING  
320 West Willoughby Avenue • Suite 300  
Juneau, Alaska 99801-9983

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April 10, 2001

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

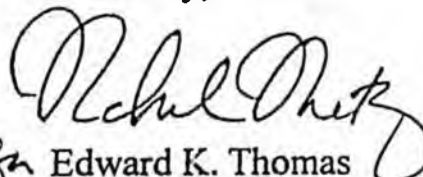
Dear Representative Whitaker:

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



S C I A L A S K A / C A N A D A R E G I O N

April 8, 2001

The Honorable Jim Whitaker  
Alaska State Legislature  
Room 411  
Juneau, Alaska 99801

Dear Representative Whitaker:

I wanted to personally write to let you know that our company is in support of the amended language contained in House Bill 187. If passed, this legislation would benefit our memorial parks in Fairbanks and Juneau.

Our business is owned and operated by Service Corporation International (SCI), a multinational funeral and cemetery firm. Currently, SCI owns and manages Nine (9) funeral homes and cemeteries in the State of Alaska.

Our industry and the State of Alaska are fortunate to have people like you serving in office.

Again, thank you for your support in the passage of House Bill 187.

Very truly yours,

James D. Heber  
Area Vice-President

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

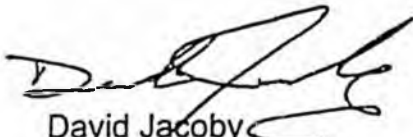
cc: Tim Rogers, MOA Legislative Team

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

Letters 01\Jacoby\HB 187.wpd\ga

# Facsimile Transmittal

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**REP. JIM WHITAKER**

Alaska State Capitol, Room 411

Juneau, AK 99801

Phone (907) 465-3004

Fax (907) 465-2070

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Date: April 3, 2001

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Attention: Bob Sam, Sitka Tribe of Alaska

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From: Lori Backes, Aide to Rep. Whitaker

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Number of pages (including this cover): 3

RE: HB187

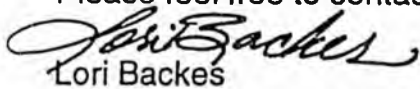
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**Comment(s):** Mr. Sam, I very much enjoyed your phone call this morning and appreciate your comments to House Bill 187. It would be helpful if you are interested in sending a letter to Rep. Whitaker pointing out some of the vandalism and theft problems that you must deal with in your position as caretaker of the cemeteries and burial sites, as well as the rise in grave-robbing due to the high prices persons may get for burial artifacts and grave markers.

If you choose to send a letter, would you please fax a copy to us so that we may include it in the file regardless of whether the USPS delivers it in time?

I will contact you when this bill is scheduled for hearing. In the meantime, thank you again for your interest.

Please feel free to contact me anytime.



Lori Backes

Legislative Aide to Rep. Whitaker

email: [Lori\\_Backes@legis.state.ak.us](mailto:Lori_Backes@legis.state.ak.us)

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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

Introduced By: Mayor Hayes  
Date: April 9, 2001

**RESOLUTION NO. 3912**

**A RESOLUTION SUPPORTING HOUSE BILL 187, RELATING TO STATE PENALTIES FOR CRIMES INVOLVING GRAVES, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City experiences occasional criminal activities at both the Clay Street and Birch Hill Cemeteries; and

WHEREAS, House Bill 187 provides for overall improvement to state laws regarding vandalism and desecration of graveyards, including increasing criminal penalties for certain crimes, and

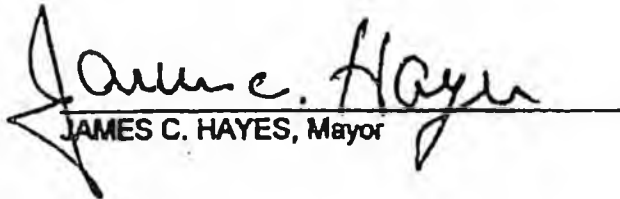
WHEREAS, passage of House Bill 187 would have no fiscal impact on the City, but may have the effect of deterring criminal behavior in our cemeteries

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA as follows:

Section 1. The City Council supports House Bill 187 and urges its adoption by the legislature.

Section 2. That a copy of this Resolution be provided to our Interior Delegation and Governor Knowles.

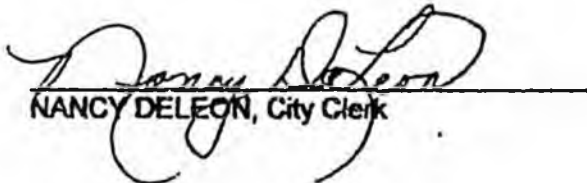
Section 3. That the effective date of this Resolution shall be the 9<sup>th</sup> day of April, 2001.

  
JAMES C. HAYES, Mayor

AYES: 5  
NAYS: 0  
ABSTAIN: 0  
ABSENT: 1  
ADOPTED: *April 9, 2001*

ATTEST:

APPROVED AS TO FORM:

  
NANCY DELEON, City Clerk

HERBERT P. KUSS, City Attorney

**Subject:** [Fwd: FW: cemetery legislation]  
**Date:** Fri, 13 Apr 2001 16:19:18 -0800  
**From:** Representative Jim Whitaker <Representative\_Jim\_Whitaker@legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Lori\_Backes@legis.state.ak.us

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**Subject:** FW: cemetery legislation  
**Date:** Wed, 11 Apr 2001 11:59:33 -0800  
**From:** "Ann Ringstad" <ann.ringstad@alaska.edu>  
**To:** "Jim Whitaker" <Representative\_Jim\_Whitaker@legis.state.ak.us>, "Janet Seitz" <janet.seitz@legis.state.ak.us>

-----Original Message-----

**From:** Maribeth Murray [mailto:ffmsm@uaf.edu]  
**Sent:** Monday, April 09, 2001 1:28 PM  
**To:** Ann Ringstad  
**Subject:** cemetery legislation

Dear Ms. Ringstad

I have reviewed the legislation regarding the changes to the cemetery portion. There is no need for concern here as these proposals are already covered by Federal NAGPRA legislation and the Historic Preservation Act.

Maribeth Murray  
Assistant Professor, Anthropology, UAF

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Representative Jim Whitaker <Representative\_Jim\_Whitaker@legis.state.ak.us>



CITY OF

FAIRBANKS

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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

## 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, and 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.

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



**Session**  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

**Interim**  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## SPONSOR STATEMENT House Bill 187

House Bill 187 is an act relating to the destruction, desecration, and vandalism of cemeteries and graves.

From Southeast Alaska to the Arctic Coast, Alaskans from many different regions have ways of celebrating the lives of loved ones lost. Currently under statute, there are few protections of cemeteries and memorials of past and present generations.

Implementing HB 187 will make the knowing vandalism or theft of items from a cemetery, tomb, or memorial, a Class C Felony punishable by up to five years and Fifty Thousand Dollars.

# 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): \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to vandalism of cemeteries  
and graves..." 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						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	.	.	.	.	.	.

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.

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 187(JUD)  
 (II) 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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: 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 Meiners for Bruce M. Botelho, Attorney General Date 4/6/01  
Agency Department of Law

For distribution information, call the Governor's Legislative Office