

As Introduced

136th General Assembly

Regular Session

2025-2026

S. B. No. 286

Senator Schaffer

To amend section 517.23 of the Revised Code to 1
require cemetery operators to relocate remains 2
if the gravestone is relocated. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 517.23 of the Revised Code be 4
amended to read as follows: 5

Sec. 517.23. (A) Subject to divisions (B), (D), (E), and 6
(F) of this section, the board of township trustees, the 7
trustees or directors of a cemetery association, or the other 8
officers having control and management of a cemetery or the 9
officer of a municipal corporation who has control and 10
management of a municipal cemetery shall disinter or grant 11
permission to disinter any remains interred in the cemetery in 12
~~either~~any of the following circumstances: 13

(1) Within thirty days after an application for 14
disinterment is filed with the cemetery in accordance with 15
division (A) of section 517.24 of the Revised Code and payment 16
of the reasonable costs and expense of disinterment is made by 17
the following applicants: 18

(a) A designated representative, or successor, to whom the 19
decedent had assigned the right of disposition in a written 20

declaration pursuant to section 2108.70 of the Revised Code and 21
who had exercised such right at the time of the declarant's 22
death; 23

(b) If no designated representative exercised the right of 24
disposition pursuant to section 2108.70 of the Revised Code, the 25
surviving spouse of the decedent who is eighteen years of age or 26
older. 27

(2) On order of a probate court issued under division (B) 28
of section 517.24 of the Revised Code and payment by the person 29
who applied for the order under that division of the reasonable 30
costs and expense of disinterment; 31

(3) If the involved board, trustees, directors, other 32
officers, or officer of the municipal corporation moves the 33
stone or monument marking the remains, in which case the 34
involved board, trustees, directors, other officers, or officer 35
of the municipal corporation shall reinter the remains where the 36
stone or monument becomes located. 37

(B) No disinterment shall be made pursuant to this section 38
and section 517.24 of the Revised Code if the decedent died of a 39
contagious or infectious disease until a permit has been issued 40
by the board of health of a general health district or of a city 41
health district. This division does not apply to cremated 42
remains. 43

(C) Upon disinterment of remains under division (A) (1) or 44
(2) of this section, the involved board, trustees, directors, 45
other officers, or officer of the municipal corporation shall 46
deliver or cause to be delivered the disinterred remains to the 47
applicant under division (A) (1) of this section or, if the 48
disinterment was pursuant to court order issued under division 49

(B) of section 517.24 of the Revised Code, to the person who 50
applied for the order under that division. 51

(D) The board of township trustees, the trustees or 52
directors of a cemetery association, or the other officers 53
having control and management of a cemetery or the officer of a 54
municipal corporation who has control and management of a 55
municipal cemetery may disinter or grant permission to disinter 56
and, if appropriate, may reinter or grant permission to reinter 57
any remains interred in the cemetery to correct an interment 58
error in the cemetery if the board, trustees, directors, other 59
officers, or officer of the municipal corporation comply with 60
the internal rules of the cemetery pertaining to disinterments 61
and if the board, trustees, directors, other officers, or 62
officer of the municipal corporation provide notice of the 63
disinterment to the person who has been assigned or reassigned 64
the rights of disposition for the deceased person under the 65
provisions of section 2108.70 or 2108.81 of the Revised Code. 66
The board, trustees, directors, other officers, or officer of 67
the municipal corporation may correct an interment error under 68
this division without a court order or an application by a 69
person. 70

(E) (1) A person who is an interested party and who is 71
eighteen years of age or older and of sound mind may apply to 72
the probate court of the county in which the decedent is 73
interred for an order to prevent the applicant under division 74
(A) (1) of this section from having the remains of the decedent 75
disinterred. An application to prevent the disinterment of the 76
remains of the decedent shall be in writing, subscribed and 77
verified by oath, and include all of the following: 78

(a) If applicable, a statement that the applicant assumed 79

financial responsibility for the funeral and interment expenses 80
of the decedent; 81

(b) If division (E) (1) (a) of this section is inapplicable 82
relative to the applicant, a statement that the applicant did 83
not assume financial responsibility for the funeral and 84
interment expenses of the decedent; 85

(c) A statement that the applicant is eighteen years of 86
age or older and of sound mind; 87

(d) The relationship of the applicant to the decedent; 88

(e) A statement of the applicant's reasons to oppose the 89
disinterment of the remains of the decedent. 90

(2) An applicant for an order to prevent the disinterment 91
of the remains of the decedent under division (E) of this 92
section promptly shall give notice of the filing of the 93
application by certified mail, return receipt requested, to the 94
applicant under division (A) (1) of this section. The notice 95
shall indicate that the applicant has filed an application for 96
an order to prevent the disinterment of the remains of the 97
decedent. 98

(F) (1) If the repair or replacement of a mausoleum or 99
columbarium necessitates the disinterment of one or more sets of 100
remains, the board, trustees, directors, other officers, or 101
officer of the municipal corporation, shall file a single 102
application with the probate court in the county where the 103
mausoleum or columbarium is situated for a disinterment order 104
that authorizes the disinterment and reinterment of those 105
affected remains in the mausoleum or columbarium. Upon the 106
filing of the application, the probate court shall schedule a 107
hearing. 108

(2) The board, trustees, directors, other officers, or 109
officer of the municipal corporation promptly shall provide 110
notice to the surviving spouses of the affected decedents and to 111
the persons who have been assigned or reassigned the rights of 112
disposition for the affected remains under the provisions of 113
sections 2108.70 to 2108.90 of the Revised Code. The notice 114
shall state that an application for disinterment has been filed 115
and shall provide the time, date, and location of the hearing. 116
The notice shall be sent by certified mail, return receipt 117
requested, or, if the names or addresses of such persons are 118
unknown and cannot with reasonable diligence be ascertained, the 119
notice shall be made by publication in a newspaper of general 120
circulation in the county where the probate court is located and 121
as otherwise required by the probate court. 122

(3) Upon conducting the hearing, the court shall issue an 123
order of disinterment if all of the following are satisfied: 124

(a) The affected remains shall be held in a permanent or 125
temporary structure on cemetery property that allows for access 126
for visitation during the times that the cemetery's other 127
grounds and facilities are open for visitation, shall be 128
properly identified and held in a secure manner without any 129
commingling of cremated remains, and shall not be held for a 130
period exceeding eighteen months unless an extension of time is 131
granted by the probate court for good cause; 132

(b) If a mausoleum or columbarium is being replaced, the 133
replacement mausoleum or columbarium shall be built on property 134
that is owned by the cemetery and that is either the same 135
property upon which the original mausoleum or columbarium was 136
located or property that is contiguous thereto; 137

(c) The cemetery provided notice as required under 138

division (F) (2) of this section; 139

(d) Upon considering all of the following, the court finds 140
there are one or more compelling reasons to issue the requested 141
order of disinterment: 142

(i) The cost, feasibility, and timetable for the repairs 143
or replacement; 144

(ii) The current condition of the structure to be repaired 145
or replaced; 146

(iii) The location, design, features, and overall quality 147
of the proposed replacement structure; 148

(iv) The input of the persons receiving notice under 149
division (F) (2) of this section. 150

(4) A cemetery is not liable in damages in a civil action 151
if the cemetery changes the specific location of entombment 152
rights or columbarium rights due to the repair or replacement of 153
a mausoleum or columbarium made in accordance with an order 154
issued by the probate court under division (F) (3) of this 155
section. 156

(G) As used in this section and in section 517.24 of the 157
Revised Code: 158

(1) "Cemetery" and "interment" have the same meanings as 159
in section 1721.21 of the Revised Code. 160

(2) "Disinterment" means the recovery of human remains by 161
exhumation, disentombment, or disinurnment. "Disinterment" does 162
not include the raising and lowering of remains to accommodate 163
two interments within a single grave and does not include the 164
repositioning of an outside burial container that encroaches an 165
adjoining burial space. 166

Section 2. That existing section 517.23 of the Revised	167
Code is hereby repealed.	168