

The House Committee on Judiciary offers the following substitute to HB 133:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 44 of the Official Code of Georgia Annotated, relating to
2 property easements, so as to provide for rights of way across private land for the purpose of
3 access to cemetery sites; to provide definitions; to establish notice procedures; to provide for
4 immunity from liability for landowners; to provide a cause of action; to amend Code Section
5 36-72-4 of the Official Code of Georgia Annotated, relating to permits required for
6 developing land on which a cemetery is located, so as to prevent certain activities on
7 cemeteries and burial sites without a permit; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 9 of Title 44 of the Official Code of Georgia Annotated, relating to property
12 easements, is amended by adding a new article to read as follows:

13 style="text-align:center">"ARTICLE 2A

14 44-9-30.

15 As used in this article, the term:

16 (1) 'Cemetery' means a noncommercial place dedicated to and used for permanent
17 interment or inurnment of human remains and may consist of a burial park for earth
18 interments, a mausoleum for vault or crypt interments, a columbarium for inurnments,
19 or other similar structures.

20 (2) 'Descendant' means a person or group of persons related to a human by blood or
21 adoption in accordance with Title 19.

22 (3) 'Family member' means a spouse, child, sibling, parent, grandparent, or grandchild.

23 (4) 'Private land' means the physical boundaries of a cemetery and a 25 foot buffer from
24 the edge of the occupied graves.

25 44-9-31.

26 (a) Owners of private land on which a cemetery is located shall grant access to such
27 cemetery not more than twice each calendar year to:

28 (1) Any family member or descendant of any deceased person whose remains lie within
29 the cemetery;

30 (2) Any owner of the cemetery; or

31 (3) Any person responsible for maintenance of the cemetery.

32 (b) Access to such cemetery shall include ingress, egress, and regress, but only for the
33 limited purposes of maintaining the cemetery for its intended use, honoring persons buried
34 at the cemetery site, or conducting genealogical research.

35 (c) A landowner granting access pursuant to this article may supervise ingress and egress
36 across the property and dictate a reasonable location and manner of travel across the
37 property.

38 (d) A landowner granting access pursuant to this article shall provide for access to such
39 property, including, but not limited to, the unlocking of any gates or fences.

40 44-9-32.

41 (a) Any person seeking access across private land pursuant to Code Section 44-9-31 shall
42 provide to the landowner prior notice of intent to enter the private land.

43 (b) Prior notice of intent to enter the private land must be received by the landowner at
44 least 14 days prior to the proposed date of entry; provided, however, that if the landowner
45 is a utility provider, notice must be received at least 30 days prior to the proposed date of
46 entry. The notice shall include the name, address, telephone number, and, if available,
47 e-mail address of the person seeking access across private land pursuant to Code Section
48 44-9-31.

49 (c) Upon receiving proper notice, the landowner shall allow access on the proposed date
50 or on any other date agreeable to both parties.

51 (d) No landowner shall be required to grant access under Code Section 44-9-31 if:

52 (1) Prior notice under this Code section is not given;

53 (2) Public access to the cemetery site is otherwise available;

54 (3) The person seeking access is able to reach the cemetery site by way of his or her own
55 land; or

56 (4) The requested access is unreasonable with regard to hour, duration, or manner of
57 travel across the land.

58 44-9-33.

59 A person granted access across private land pursuant to this article shall enjoy the same
 60 protection as a licensee. The landowner shall be liable to a licensee only for willful or
 61 wanton injury as provided in Code Section 51-3-2.

62 44-9-34.

63 (a) If a private landowner does not allow access to a cemetery in violation of this article,
 64 such violation shall constitute a private nuisance and may be abated.

65 (b) A landowner who continues to deny access after a court has ordered abatement
 66 pursuant to this Code section shall be subject to the contempt powers of the court."

67 **SECTION 2.**

68 Code Section 36-72-4 of the Official Code of Georgia Annotated, relating to permits required
 69 for developing land on which a cemetery is located, is amended as follows:

70 "36-72-4.

71 No owner or occupier of land shall knowingly disturb any known cemetery, burial ground,
 72 human remains, or burial object shall be knowingly disturbed by the owner or occupier of
 73 the land on which the cemetery or burial ground is located for the purposes of developing
 74 or changing the use of any part of such land by developing, allowing livestock to graze
 75 upon, or similarly interfering with such cemetery, burial ground, human remains, or burial
 76 object unless a permit is first obtained from the governing authority of the municipal
 77 corporation or county wherein the cemetery or burial ground is located, which shall have
 78 authority to permit such activity except as provided in Code Section 36-72-14."

79 **SECTION 3.**

80 All laws and parts of laws in conflict with this Act are repealed.