

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 278

An Act to amend the Code of Virginia by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-39.1:2, relating to cemeteries; maintenance of abandoned or neglected graveyards; owner unknown.

[H 1237]

Approved April 6, 2026

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-39.1:2 as follows:

§ 57-39.1:2. Maintenance of abandoned or neglected graveyards; owner unknown.

A. When a graveyard, wholly or partly within any locality, has been abandoned, is unused and neglected by the owner, and the owner of such graveyard is unknown, or cannot with reasonable diligence be found, the owner of adjacent land or an incorporated nonprofit entity may petition the circuit court of the county or city in which the graveyard is located for an exclusive license to maintain the property at the petitioner's expense. Such petition shall set forth the type of maintenance for which such license is sought, which may include (i) mowing and weeding; (ii) removing brush, debris, and refuse without mechanical equipment or ground disturbance; (iii) applying fertilizers or herbicides; (iv) trimming trees or removing dead trees; (v) cleaning, repairing, or resetting headstones and monuments; (vi) installing replacement memorials or memorials for newly identified graves; (vii) replacing fencing; (viii) developing preservation plans; and (ix) identifying unmarked graves through ground penetrating radar.

B. Following a hearing on a petition pursuant to subsection A, the court may grant an exclusive license for the maintenance of a graveyard upon a showing by the petitioner of (i) a good faith effort to identify and contact an owner of record of the graveyard, or his heirs if such owner of record is known to be dead, to seek permission to maintain the graveyard and (ii) publication in a newspaper having general circulation in the locality in which the graveyard is located once a week for two consecutive weeks at least 20 days before the date fixed for the hearing containing (a) a declaration that such graveyard has been presumed abandoned, (b) notice that a petition for a maintenance license has been filed, and (c) the date of the hearing for such maintenance license.

C. A court may grant a petitioner an exclusive license for the maintenance of a graveyard not to exceed five years. Such petitioner may, by petition of the court, renew such license indefinitely. After the petitioner has been granted such license, the petitioner shall have the same rights and obligations as any person granted the right of ingress and egress pursuant to subsections A, B, and C of § 57-27.1.

D. After the court grants a petitioner a license to maintain the property of an abandoned graveyard, the owner of such graveyard may petition the circuit court of the county or city in which the graveyard is located to terminate the license. Such owner, in the absence of gross negligence or willful misconduct, shall be immune from liability in any civil suit, claim, or cause of action arising out of any access granted to the petitioner pursuant to this section.

E. All costs incurred in any petition to obtain a license to maintain the property of an abandoned graveyard pursuant to subsections A, B, and C shall be at the petitioner's expense.