

WHO CAN HELP WITH CEMETERY QUESTIONS OR REPONSIBLITIES?

Generally we have been advised that the County Attorney and or County Coroner – or the state associations for those officers are good places to start. In most inquiries that have been directed to us there are many unknowns involving possible right of ways, easements, trusteeships or vestments of title, cemetery district accounts – all beyond our expertise or knowledge. But two statues are good places to start – before you call the county attorney or coroner:

7-35-4102. vesting of title to cemetery grounds -- restrictions on use. The title to lands used as a public cemetery or graveyard, situated in or near to any city, town, or village and used by the inhabitants thereof as a burial-ground continuously without interruption for 5 years, is vested in the inhabitants of such city, town, or village. The lands must not be used for any other purpose than a public cemetery, except that the bodies interred therein may be removed and no other interred therein upon the order of the board of county commissioners, city council, or other body having authority when it appears that the public health is endangered or for any other good cause, but a new cemetery must be purchased and laid out by proper authority and such bodies removed and interred therein, and the old cemetery may be sold and the proceeds applied to the purchase of the new cemetery.

History: En. Sec. 2880, Pol. C. 1895; re-en. Sec. 1988, Rev. C. 1907; re-en. Sec. 5168, R.C.M. 1921; Cal. Pol. C. Sec. 3105; re-en. Sec. 5168, R.C.M. 1935; R.C.M. 1947, 9-301.

45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial. (1) In this section, "capitol" means the Montana state capitol building and any permanent monuments on the capitol grounds.

(2) A person commits the offense of desecration if the person purposely:

- (a) defiles or defaces the capitol or a place of worship, cemetery, or public memorial;
- (b) places on or attaches to the capitol or a place of worship, cemetery, or public memorial any mark, design, or material not properly a part of the capitol, place of worship, cemetery, or public memorial; or
- (c) injures, damages, or destroys any portion of the capitol or of a place of worship, cemetery, or public memorial.

(3) A person convicted of the offense of desecration shall be:

- (a) incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, if the damage does not exceed \$1,500; or
- (b) imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, if there is \$1,500 or more of damage.

(4) With regard to the capitol, this section does not apply to displays or actions authorized by the department of administration.

History: En. Sec. 1, Ch. 533, L. 1995; amd. Sec. 1, Ch. 141, L. 1999; amd. Sec. 4, Ch. 473, L. 2009.