

CONDITIONS to watch for

- If a traditional access route to your cemetery is damaged or destroyed, landowners are required to designate a reasonable alternative. You may need to seek help from local elected officials, a judge, or the Attorney General's office to make sure this happens; contact the Cemetery Preservation Group - contact information in this brochure.
- Citizens with cemeteries near surface coal mines especially must make sure their cemeteries are registered with the State Historic Preservation Office (SHPO) and that local officials are informed of their presence. Surface coal mining operations are mandated to stay 100 feet away from a registered cemetery, but this is often not far enough to prevent some damage to the cemetery: watch your cemeteries closely! Report any damage and seek immediate help if needed.
- Oil and Gas drilling may be an increasing threat to cemeteries; at present, there is no legal mandate for a buffer zone between oil and gas drilling and cemeteries.
- Landowners unaware of current cemetery protection laws may continue to present problems. Communicate with your local elected officials, encouraging them to notify the landowners of the presence of your cemetery and laws that protect it from damage or desecration.

The importance of REGISTERING

- Registering your cemetery with the State Historic Preservation Office (SHPO) will make the location of your cemetery known when industrial operations, highways, or building projects are being planned in the area of the cemetery.
- Having the cemetery's location known will help to protect it from these activities. Industries seeking permits will be told that a cemetery is part of the permit site. They must then take measures so as not to damage the cemetery and grave markers.
- Find forms and instructions to report your cemetery on SHPO's website:
<http://www.wvculture.org/shpo/cemeteries.html>.
- Also, make the location of your cemetery known to your local sheriff or county commission. They are supposed to notify the landowner of descendants' rights to visit.

If you have QUESTIONS

Because there is still much work to be done, if you have questions, need hard copies of the forms mentioned in this brochure, or would like more information about coordinated efforts to protect cemeteries, please contact:

Danny Cook: 304-247-6943
Carol Warren: 304-539-2240

OVEC
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Cemetery Preservation Group

Safeguarding your family cemeteries

An explanation of new laws that can help protect family cemeteries, plus information about how to become involved in state-wide efforts to ensure that ALL cemeteries are protected!



Is your **FAMILY CEMETERY** on land now owned by someone else?

If your family cemetery is on property that you do not own, you can ask for access in order to **visit gravesites, do genealogical research, and to clean or maintain the cemetery.**

Here's how:

- Call or write the landowner and ask for access to the cemetery on a specific date.
- West Virginia law requires a response within ten days, or the landowner - if not able to allow your visit within the ten-day period - must contact you within five days to suggest another date when you can visit.
- If your usual access road or path is destroyed or blocked, the landowner is supposed to select another reasonable route for you.
- If the landowner will not grant you access, you can file a complaint with the Attorney General's Office.

The complaint form can be found at: <http://www.wvago.gov/pdf/general-consumer-complaint-form.pdf>
- You can also seek an injunction – without posting a bond - in Circuit Court, possibly resulting in immediate access to the cemetery.



Protecting our cultural heritage in the hills of West Virginia is part of our mission.

For more information **ABOUT THE LAW** itself, you can look in the W. Va. Code

- Protection of human remains and penalties for removal - Section 29-1-8
- Access to cemeteries on private property and injunctive relief- Section 37-13A-1 thru 37-13A-8
- Desecration or disinterment - Section 61-8-14

Damaging a Cemetery IS A CRIME

Deliberately damaging a cemetery is a crime. Inform your local sheriff if you see evidence that someone has intentionally:

- knocked over grave markers,
- removed items from the cemetery
- defaced or damaged stones
- removed flowers, benches, trees, fences, or other decorative memorial items in ways that are disrespectful of the dead and their family members.

Any actions that would “outrage the sensibilities of the average person” might qualify as desecration. There are legal penalties.

If anyone from an industry wants to move items from your cemetery or remove graves from the site:

- They must obtain a court order.
- They must give relatives of those buried in the cemetery a chance to express their wishes and concerns before the judge.
- Any intent to remove a cemetery must be published in the local paper, to give those who have an interest the opportunity to speak.

*"We have much more work to do. Our job isn't over yet and I'm in it for the long haul. We've won a small victory [in the 2010 legislation]. May this bill be the first of many steps to protecting our loved ones passed and allow them to rest in peace." – **Dustin White, Cemetery Preservation Group member with family cemeteries in Boone County, West Virginia***