

Kankakee Institutional History and Burial Access Act

Purpose:

To ensure that family members, genealogists, and researchers retain reasonable access to cemeteries and burial grounds located on private property within the State of Illinois, particularly those affiliated with public institutions, past and present, such as the former Kankakee State Hospital, now operating as the Shapiro Developmental Center. This Act affirms the dignity of the deceased and the rights of the living to remember, study, and preserve historical burial sites.

SECTION 1. SHORT TITLE

This Act shall be known and may be cited as the "Kankakee Institutional History and Burial Access Act."

SECTION 2. DEFINITIONS

(a) "Cemetery" means any land or structure used or intended to be used for the interment of human remains, including graves, burial grounds, and mausoleums, especially those affiliated with former or current state hospitals, psychiatric institutions, and correctional facilities. (b) "Descendant" means any person who is a direct lineal descendant of an individual interred in a cemetery. (c) "Genealogist" means any individual who is conducting research into family lineage or history, whether professional or amateur. (d) "Researcher" means any individual conducting historical, sociological, or institutional research that involves burial sites. (e) "Reasonable access" means access at reasonable times and under reasonable conditions, including advance notice and observance of property rules, for the purposes of visiting, maintaining, or studying gravesites. (f) "Private property owner" means any individual, organization, or entity that holds legal title to land on which a cemetery or burial site is located.

SECTION 3. LEGISLATIVE FINDINGS AND PURPOSE

(a) The General Assembly finds that the right to access and honor the gravesites of deceased individuals- including former medical patients, institutional residents, and incarcerated persons- is fundamental to the dignity and memory of the deceased and the peace of mind and heritage of living descendants, genealogists, and researchers.

(b) The purpose of this Act is to establish consistent and fair access rights to cemeteries and gravesites located on private property, particularly those linked to the historical and ongoing operations of state-run mental health institutions and correctional facilities, ensuring that these rights are balanced with the property interests of landowners.

SECTION 4. ACCESS TO CEMETERIES AND GRAVESITES

(a) Authorized visitors shall have the right to reasonable access to cemeteries and burial grounds located on private property for the purpose of:

- Visiting gravesites;
- Conducting genealogical, historical, or cultural research;
- Documenting or preserving cemetery records and conditions.

(b) Private property owners shall not unreasonably deny access to burial grounds, and must facilitate such access upon reasonable notice, provided that:

- At least 48 hours' notice is given;

- Access is confined to designated routes that avoid disruption;
 - Access occurs during daylight hours.
- (c) Property owners may propose alternative access times or methods if safety, business operations, or agricultural activity warrant such adjustments.

SECTION 5. NOTICE AND LIABILITY

(a) Visitors must:

- Request access by providing 10 days' advance written notice;
- Enter at their own risk;
- Refrain from disturbing, altering, or removing any grave marker or artifact;
- Avoid trespassing outside of designated access areas.

(b) Property owners:

- Are not liable for unintentional injuries suffered by authorized visitors, provided reasonable precautions are maintained;
- Are not obligated to improve or restore burial sites but may not willfully neglect or obscure their existence;
- Shall not erect permanent barriers for the purpose of denying lawful access.

SECTION 6. ENFORCEMENT AND REMEDIES

(a) If access is denied in violation of this Act, the aggrieved party may petition the circuit court in the jurisdiction where the cemetery or burial site is located for an order granting access.

(b) The court may order injunctive relief and award court costs and reasonable attorney's fees to the prevailing party.

SECTION 7. APPLICATION AND CONSTRUCTION

(a) This Act applies to all cemeteries and burial sites regardless of the date of interment, including those associated with former and current state hospitals, psychiatric institutions, and correctional facilities.

(b) Nothing in this Act shall be construed to interfere with valid zoning laws or to impair existing property rights more than necessary to ensure reasonable access.

(c) This Act shall not apply to cemeteries or burial sites on land used for active agricultural purposes if such access would substantially interfere with the agricultural use.

SECTION 8. EFFECTIVE DATE

This Act shall take effect on January 1 of the year following its passage.

FOOTNOTES

1. Texas Health and Safety Code §711.041 et seq.
2. Virginia Code § 57-27.1: Right of access to cemeteries located on private property.
3. South Carolina Code § 27-43-310: Access to cemeteries on private property for family members, genealogists, and researchers.
4. National Trust for Historic Preservation: Cemetery Preservation Law in the United States.
5. Illinois State Historical Society: Best Practices for Cemetery Access and Preservation.