

Historic African American Cemetery Report

Draft as of 5.15.22

Executive Summary

To be developed following public hearing

I. Background

A. Joint Chairmen's Report Study Requirement

During the 2021 legislative session, a bill entitled *Historic African American Cemeteries Preservation Fund and Study* (HB 1099) was introduced, which required a study of issues facing historic African American cemeteries in Maryland, and creation of a grant program designed to assist with historic cemetery identification, preservation, and commemoration activities. Although the bill did not become law, the study requirement of the bill was included in the Joint Chairmen's Report (pages 37-38) for the 2021 session of the Maryland General Assembly.

In the Joint Chairmen's Report, the budget committees expressed concern that "there is insufficient awareness of the issues facing historic African American cemeteries in the State" and requested that the Maryland Commission on African American History and Culture (MCAAHC) and the Maryland Department of Planning (MDP) provide a report on historic African American cemeteries. The budget committees required the cemetery study to be completed in consultation with stakeholders, including the Maryland Historical Trust (MHT), the Coalition to Protect Maryland Burial Sites, Preservation Maryland (PM), and descendant communities, as well as specific descendants of individuals interred in historic African American cemeteries. The Joint Chairmen's Report defined historic African American cemeteries for the purposes of this study as "a cemetery or burial ground that is of historic significance to the enslaved African or African American experience in Maryland."

The Budget committees required that the historic African American Cemetery report resulting from the study include:

- an examination of the issues facing historic African American cemeteries in the state by identifying the types of cemetery identification, restoration, protection, preservation, maintenance or commemoration activities that can be accomplished under current law, through changes to regulations, and through legislation;
- the types of cemetery identification, restoration, protection, preservation, maintenance, or commemoration activities used in other states;
- the design of a grant fund for the purpose of identifying, preserving, or maintaining historic African American cemeteries in the State; and,
- a full study of the ways in which MCAAHC can identify, conduct outreach to, and incorporate participation of direct descendants, to inform MCAAHC's current and future efforts regarding these issues.

The Budget committees requested that the draft report be posted on the MCAAHC's website by May 15, 2022, followed by a 30-day comment period. During the 30-day comment period, the Budget committees requested that the MCAAHC hold a public hearing with the intent to engage stakeholder participation and solicit suggestions for next steps. The final report, incorporating feedback from both the 30-day public comment period and the public hearing, is to be submitted by June 30, 2022.

B. Study Methodology

A Working Group consisting of members of the MCAAHC, MDP, MHT, the Coalition to Protect Maryland Burial Sites, and PM began meeting virtually in summer 2021 to develop a work program and timeline for fulfillment of the historic African American cemetery study requirement. The Working Group met monthly throughout the study period and included the following individuals:

- Chanel Compton, Executive Director, MCAAHC
- Elinor Thompson, Commissioner, MCAAHC
- Adam Gruzs, Chief of Staff, MDP
- Elizabeth Hughes, Director, MHT
- Charles Hall, PhD, State Terrestrial Archaeologist, MHT
- Nell Ziehl, Chief, Office of Planning, Education and Outreach, MHT
- Eileen McGuckian, President, Coalition to Protect Maryland Burial Sites
- Ruby Nwaebube, Advocacy Associate, PM
- Elly Colmers Cowan, Director of Government Relations, PM
- Rob Schoeberlein, PhD, Acting City Archivist, Baltimore City Archives

Development of the study was also supported by the work of two interns. Julianna Roman, an undergraduate student at Mount St. Mary's University and a participant in the 2021 Governor's Summer Internship Program, assisted with background research for the report. Roman conducted outreach to county planning and zoning offices to gather information about existing local government cemetery identification and preservation programs. Roman also collected data on state cemetery preservation programs across the country.

Scott Travers, a juris doctorate candidate at the George Washington University School of Law, assisted with research for the report during his 2021 summer internship with the Office of the Maryland Attorney General. Travers completed a survey of enacted law in the State of Maryland affecting cemeteries with a focus on access to, maintenance of, and recordkeeping requirements for cemeteries and cemetery owners and operators. In addition, he conducted research on county and municipal enactments regarding cemeteries.

The Working Group solicited public input on historic cemetery identification and preservation challenges and needs through the distribution of an online survey (see Appendix 1) posted on the MCAAHC website. The survey went live in November 2021, and accepted responses through March 2022. The survey was promoted on partner organizations' social media sites and distributed through email distribution lists maintained by MCAAHC, MHT, PM, and the Coalition to Protect Maryland Burial Sites and the Office of Cemetery Oversight (OCO). Members of the Working Group reached out to the Legislative Black Caucus as well as personal networks, including African American genealogists, African American churches, African American genealogical historical societies, as well as

predominantly African American social organizations that may include masonic lodges, beneficial burial societies and African American-owned funeral homes and morticians.

Survey responses were received both electronically and in hard copy. At the end of the survey period, 293 responses were received.

Using data provided by survey respondents, self-identified descendants of individuals interred in historic African American cemeteries were invited to participate in a series of virtual focus groups that took place on March 14, 15 and 16. A total of 81 individuals registered for the focus group meetings. Moderated by Chanel Compton, the focus group meeting agenda included a brief presentation on the study purpose and survey results followed by a discussion of the following questions:

- *What are your thoughts on the historic African American cemetery survey data? Was there anything missing and/or should be included?*
- *In what ways should a grant address the needs of African American cemeteries in Maryland? (For example: maintenance, archiving, etc.)*
- *How can the Maryland Commission on African American History and Culture most effectively partner with descendant communities to support African American cemeteries in Maryland? (For example: additional funding, educational resources, tech support, etc.)*

Focus group participant responses to these questions have been incorporated into the report's discussion of issues facing cemeteries today as well as recommendations for how to address obstacles to cemetery identification and preservation.

A draft of the report was posted on the MCAAHC website on May 15 to allow for a 30-day comment period.

II. Issues Facing African American Cemeteries in Maryland Today

Cemeteries are places of great significance to local communities across the state and often serve as places of remembrance, ritual, and deep emotional experience. They provide gateways to information about and connection with ancestors. Family reunions are normally held to reconnect family and to ensure that the "legacy" is continued for future generations. Documentation research and identifying these historic cemeteries bring cultural awareness and will reveal the historical significance to the people who are interred at these burial grounds. African American cemeteries document the nation's profound history of slavery and the African diaspora, civil rights, spiritual practice, and times of war. These sacred sites honor the voices and lives of those that shaped our democracy, culture, and communities.

Survey respondents cited missing grave markers (90%), lack of maintenance (87%), and missing or deteriorated cemetery records (86%) as among the greatest obstacles to cemetery preservation. Respondents also conveyed concern about negative impacts to historic cemeteries resulting from abandonment (74%) and the unknown location of cemeteries and burials (72%), as well as development pressures (61%). Less pressing, but still meaningful, concerns included problems associated with vandalism (53%), uncooperative owners (37%), and cases where the owner of the cemetery is not

known (37%). Other issues raised by survey respondents included lack of capacity (funding and volunteers) in stewardship groups, difficulties with access (for example, deteriorating roads or private property restrictions), and encroachment by neighbors. It is important to note that for individual cemeteries experiencing any one of these issues, the priority ranking for that issue will likely be higher. That is: this data provides a snapshot of the range and concentration of issues faced by African American cemeteries throughout the state.

Participants in the descendant community focus groups generally concurred with these concerns and priorities, but added that obstacles to preservation also included 1) the lack of a central repository for African American cemetery data and 2) state and local government impacts to historic cemeteries through permitting, lack of planning, and other actions and inactions. Descendant communities' experience of historical trauma caused by the destruction of cemeteries and burial sites by private and government interests was a recurrent theme among survey and focus group respondents. Strong interest was expressed by some in providing targeted support to those communities most impacted by these types of actions.

Issues addressed in the survey and focus group responses are grouped thematically and linked to proposed recommendations for action below.

A. Lack of Maintenance and Missing Grave Markers

The Maryland Cemetery Act requires that certain types of cemeteries establish a perpetual care trust fund with a minimum deposit of \$10,000, \$25,000, or \$50,000 depending upon the type of cemetery and the amount of developed land area (Maryland Bus Reg Code § 5-603 (2015)). "Perpetual care" is defined as the "maintenance, including the cutting of grass abutting memorials or monuments, administration, supervision, and embellishment of a cemetery and its ground roads, and paths" as well as "the repair and renewal of buildings, including columbaria and mausoleums and the property of the cemetery." Exempted from this requirement are cemeteries owned and operated by a state veterans' agency; by local governments; by church, synagogue, or other religious organizations; or by a nonprofit organization created before 1900 by an act of the General Assembly. Private family cemeteries, although not called out in the law, are considered by the OCO to be included in this exemption.

Lacking resources for perpetual care, church cemeteries suffer neglect as congregations shrink and age over time or churches become inactive. Descendants may abandon family plots as they move away or no longer have access to the shared memory of these burial locations. In other cases, grave markers have been vandalized or removed illegally. Unmaintained cemeteries can pose active risks to visitors, including unstable markers, vegetation and ground depressions. Even active cemeteries that don't face these specific challenges often suffer from a lack of volunteers who are willing and able to assist with upkeep at these sites.

Cemetery maintenance needs can include mowing, tree trimming and removal, pest control, trash cleanup, and management of erosion and drainage issues. Repair, conservation, cleaning, and replacement of damaged or missing grave markers, as well as repair and reconstruction of cemetery fencing, are high-priority needs. Cemetery stewards need access to professional expertise and education in cemetery preservation "best practices" when undertaking these projects to prevent inadvertent and irreversible damage to grave markers and historic landscape features.

Recommendation: Provide funding to support historic African American cemetery maintenance, rehabilitation, and restoration activities.

B. Missing and Deteriorated Burial Records

Burial records not only indicate where a person's body was interred and/or is currently located in a cemetery, but can also provide the approximate dates of birth and death of the individual, the name of the individual who purchased the burial plot, and the date of the purchase, as well as the names of those buried in adjacent graves, who may also be members of the same family. Paper records require proper storage to ensure their longevity, as environmental factors such as temperature and humidity can lead to deterioration. Electronic records also have limitations, as technology changes and storage devices can deteriorate over a relatively short period of time. Ideally, cemeteries should store duplicate records in a protected, offsite location to guard against impacts resulting from fire, flood, or natural disasters such as hurricanes. For older cemeteries with voluminous and often fragile records, the cost to do this work could be substantial.

Preservation of and access to burial and funeral home records is a priority for researchers seeking to identify interments at cemeteries where markers are illegible, missing, or destroyed. Funeral homes and morticians are not required by law to retain these records. Research into other types of archival records is particularly important in identifying burial grounds of the enslaved or those who have been otherwise marginalized by society, such as the poor or the mentally ill. Collecting and transcribing oral histories from community elders is often essential research, as stories about cemetery location and burial practices may have been handed down through generations over time.

Information gathered through these research and document preservation efforts could be made accessible at a central repository. Descendant focus groups expressed a particular interest in establishing the primary hub for research into records related to historic African American cemeteries in Maryland.

Recommendation: Provide funding to support historic African American cemetery research activities and the preservation of burial-related records.

Recommendation: Establish a historic African American cemetery collection, which will serve as the central repository for research into records related to historic African American cemeteries in Maryland and provide resources necessary to establish this repository.

C. Unknown or Inaccurate Cemetery Boundaries and Grave Locations

While archival research, as noted above, can be undertaken to identify burial locations, data is not always available and can be inaccurate or incomplete. Visual cues on the landscape – such as grave markers and fence lines, to the extent that they exist – are typically sought to establish cemetery boundary indicators, but are often misleading. For a variety of reasons, interments often took place outside what appears to be the cemetery boundary. Sometimes indentations in the ground or distinctive vegetation may suggest the presence of grave sites. Other circumstances require archaeological techniques, such as ground-penetrating radar (GPR), to locate burials. Burying grounds of the enslaved are often entirely unmarked, and other families used wooden markers that have since deteriorated.

To accurately identify cemetery boundaries and unmarked graves, most researchers will likely need to utilize GPR. GPR is particularly helpful in identifying the location of unmarked burials, buried headstones and burial vaults while leaving the ground undisturbed. Cemetery locational data provided through GPR can help address cases where property owners deny the existence of a cemetery or where neighboring property owners are encroaching on cemetery property. GPR data, combined with traditional land surveying techniques, could assist in establishing cemetery parcel boundaries for recordation in the land records.

Recommendation: Provide funding to support land survey, GPR, and related activities to identify historic African American cemetery boundaries and the location of unmarked burials.

D. Best Practice Guidance Needed for Locating Unmarked Cemeteries

There are no formally adopted statewide standards or provisions for conducting studies aimed at identifying locational information for African American burial sites, especially for family cemeteries and those that predate emancipation. In the case of the burial grounds of enslaved persons, those burial sites may not have been unmarked, marked with perishable materials, or marked with unmodified fieldstones not always recognizable as a grave marker if seen out of context. Without systematic efforts to locate these sites, or some guidelines on how to approach them, they are at significant risk for loss due to development.

Recommendation: Create and disseminate best practice guidance on how to use archaeological investigations, land survey techniques and archival research approaches for identifying historic African American burial sites with a special focus on family cemeteries, cemeteries that predate emancipation, and burial grounds of enslaved individuals.

E. Unknown or Contested Ownership

Ownership of family cemeteries can be difficult to discern due to the sale and/or subdivision of property, including splitting properties among multiple heirs over generations. Church cemeteries can present similar challenges once a church becomes inactive. In other cases, motivated buyers or developers may overlook or ignore covenants in the land records that protect burial sites and exclude them from the sale of adjoining property, resulting in disturbance or destruction. Legal support is needed to establish clear title and to identify protective covenants, which are often necessary first steps before undertaking site improvements.

Legal support may also be required to challenge claims to historic cemeteries that are asserted under Maryland's adverse possession law. Under adverse possession, an individual may seek to claim ownership of a property after occupying it for at least 20 years. Ownership is then decided in a court of law. Seeking recourse through the courts to reclaim a cemetery or burial ground that has been acquired through adverse possession or to protect against such claims is often the only way to resolve these threats. Some states have resolved this issue by expressly barring adverse possession claims to public or private cemetery lands based on use or occupancy.

Recommendation: Provide funding that can be used to acquire the legal services necessary to identify cemetery owners, resolve contested cemetery ownership issues, and clear title to cemetery property.

Recommendation: Consider exempting cemeteries from adverse possession claims in Maryland law.

F. Cemetery Locational Data Unknown or Inaccessible

Unlike some states (see Appendix 2), there is no single agency in Maryland that maintains a publicly accessible and comprehensive inventory or register of known cemeteries statewide – African American or otherwise. While some local governments have been very diligent in identifying and mapping local cemeteries, others maintain no information on this property type. Survey respondents identified the need for a “one-stop shop” where basic cemetery information could be easily accessed by the public for multiple purposes, including genealogical research and personal interest, or to ensure consideration of cemeteries during state and local development review processes.

1. Local and State Government Cemetery Databases

Many county governments maintain a cemetery inventory. In most cases, this data is incorporated into the local government geographic information system, which is supported by Planning and Zoning staff to ensure that cemeteries are considered during the development review process. Some local governments are actively engaged in identifying and documenting historic cemeteries, while others rely on partnerships with county historical or genealogical societies to provide cemetery location information.

At the state level, the Maryland General Assembly assigned the responsibility for preparation of a statewide burial site inventory to the OCO. Specifically, the Maryland Cemetery Act requires the Director of the OCO to prepare the following report:

"Inventory and assessment. -

(1) Beginning with a report due on December 1, 2008, the Director shall conduct an inventory of all known burial sites in the State and shall update the inventory and report every 5 years to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the number of for-profit cemeteries, nonreligious-nonprofit cemeteries, bona fide religious-nonprofit cemeteries, veterans' cemeteries, and local government-owned cemeteries."

The OCO inventory consists of an excel spreadsheet that includes 5,366 entries for cemeteries and burial grounds ranging from large commercial cemeteries to small, family-owned plots. The spreadsheet includes data on cemetery name, location and a comments field that sometimes includes ownership information. Although not accessible to the public currently, the OCO intends to make the list available on its website in the near future. However, the OCO is scheduled to sunset on July 1, 2023.

MHT does not maintain a dedicated historic cemetery layer within its map-based online database, known as Medusa. While the Maryland Inventory of Historic Properties includes individual listings for approximately 477 cemeteries and burial sites¹, cemeteries and burial sites can also be found within the boundaries of other historic properties, such as churches, farms, and historic districts. These cemeteries

¹ In addition, approximately 172 cemeteries are recorded in the MHT archaeology site files. Archaeology data is not made available to the general public.

are harder for researchers to identify without examining the full site records, and currently no flag or search method exists to extract only those sites that include cemeteries.

The Banneker Douglass Museum (BDM) maintains information on historic African American cemeteries. Its library includes private donated collections, including family bibles, funeral programs, and church records that assist researchers and genealogists to identify burial sites.

The Maryland Department of Transportation (MDOT) State Highway Administration (SHA) began to develop a statewide cemetery mapping layer in their GIS database in 2019. The purpose of this project was to record data that could be shared with state and local government planners to ensure consideration of these burying grounds prior to initiating development projects. Working in partnership with PM, SHA developed a mobile app, which could be used by the public to record cemetery locational data. So far, 112 cemeteries and burial grounds have been documented and included in SHA's database. More information about this project can be found online here: mdot-sha-cemetery-inventory-maryland.hub.arcgis.com/

The Maryland Department of Natural Resources (DNR) is actively identifying and mapping historic African American cemeteries on properties that it administers in an effort to better protect and interpret these sites. This effort involves gathering information from state park properties throughout Maryland. At this time, cemetery information is included in a database available to staff only.

Recommendation: Support development of a publicly accessible, map-based data layer dedicated to historic cemeteries throughout Maryland, which includes data from multiple sources including MHT, OCO, BDM, SHA, DNR and local governments.

2. State and Local Tax Maps

The primary purpose of state and local tax maps is to assist tax assessors to locate properties for assessments and taxation purposes. However, tax maps are also used by federal, state and local government agencies, as well as private sector firms, for a variety of analyses and decision-making processes unrelated to taxation. Current law states that a supervisor of assessments for a county may note the presence of a burial site on a parcel on the county tax maps, but does not require that this information be included. Including cemetery sites on tax maps provides baseline information for current and future property owners, descendants, taxing entities, planners, and public officials. Whether or not a jurisdiction has enacted laws to protect burial sites, being aware of their existence is vital knowledge for planning, conduct of business, and individual decision-making.

MDP maintains and regularly updates tax map data for the state and all county governments except Baltimore City. There is no statutory requirement that cemetery locational data be included in these tax maps, but when data is available, MDP includes it. Development of a statewide data layer for historic cemeteries will assist MDP in tax map updates, ensuring that some of the most important decision-makers have access to the information.

Recommendation: Require local governments to provide cemetery locational data to MDP for inclusion in state and county tax map preparation.

G. Statutory and Regulatory Weaknesses in Cemetery Protection

Cemetery law provisions are dispersed throughout various Articles of the Annotated Code of Maryland. The Maryland Cemetery Act, passed in 1997, and found in the Business Regulation Article established: 1.) permitting requirements for cemetery operators; 2.) contracting requirements and consumer protection mechanisms; and, 3.) the OCO. Provisions regarding cemetery access and changes of use are found in the Real Property Article while the Criminal Law Article establishes a process for the removal of human remains or funerary objects. Although state law does not enable Maryland counties to regulate cemeteries, some have created Burial Sites Preservation Boards to advise on local cemetery issues. Strengthening and clarifying cemetery protections that exist in current law, codifying best practices, and encouraging the creation of Burial Sites Preservation Boards could benefit cemetery preservation efforts statewide.

1. Alterations of Burial Sites without Notice

Under present law, human remains may be removed from an abandoned, private cemetery if: 1.) the removal is authorized in writing by the state's attorney of the county in which the cemetery is located, and 2.) the human remains and related gravestone, monument, or marker is placed in an accessible place in a permanent cemetery (Sections 10-402 and 10-404, Criminal Law Article, Annotated Code of Maryland). Individuals who are seeking to permanently relocate these human remains are required to publish a notice of this proposed relocation in a newspaper of general circulation in the county where the burial site is located.

Recommendation: Create a statutory requirement that will: 1) require persons requesting removal of remains or selling a cemetery to conduct research to identify descendants of the interred; 2) require public notification when a cemetery is to be sold or conveyed; and, 3) provide courts with an option for rejection of the sale of a cemetery.

2. Consultation Guidelines Are Unclear

The Maryland Code, Real Property Article §14-121.1 (“Proper treatment of burial site in existence for more than 50 years”) directs that:

“An owner of a burial site or of the land encompassing a burial site that has been in existence for more than 50 years and in which the majority of the persons interred in the burial site have been interred for more than 50 years shall consult with the Director of the Maryland Historical Trust about the proper treatment of markers, human remains, and the environment surrounding the burial site.”

One problem with this provision is that it does not identify what actions trigger the consultation requirement. As a result, property owners, cemetery preservation advocates, and local government code enforcement and permitting agencies do not have a clear understanding of when consultation is required. In addition, there is presently no requirement to consult with the MCAAHC when the cemetery or burial site is of historic significance to the enslaved African or African American experience in Maryland.

Secondly, while MHT provides guidance to property owners, that guidance is informational and cannot require the property owner to take any action. Statutory changes may be needed to empower local

government permitting agencies to make implementation of MHT guidance a condition of permit approval and to require implementation in cases where state funding, permits, or licenses are involved.

Recommendation: Amend the Real Property Article to require consultation with MHT when a property owner anticipates altering one or more of the following: 1) grave markers; 2) human remains; or, 3) the surrounding environment of the burial site and to require consultation with the MCAAHC when the cemetery or ground is of historic significance to the enslaved African or African American experience in Maryland.

Recommendation: Amend the Real Property Article to 1) empower local permitting agencies to require compliance with MHT guidance, and 2) require compliance with MHT guidance when state funds, permits or licenses are involved in a development project.

3. No Procedures for the Discovery of Human Remains

The unanticipated discovery of human remains, accidental or intentional, is not uncommon in a state where loved ones have been buried for centuries. Currently, there is no provision in state law governing what to do with an unanticipated find other than stopping work and contacting the State's Attorney. The creation of procedures for this situation, codified in statute or regulation, would assist owners and all interested parties in knowing what to do and whom to involve when remains are discovered.

Recommendation: Codify the process for managing the accidental discovery of human remains in statute or regulation.

4. Few County Burial Sites Preservation Boards Exist

Few county governments have established burial sites preservation boards. These advisory bodies at county or municipal levels serve to provide a forum and network opportunities to all parties interested in burial sites. Depending upon the needs of given jurisdictions, these groups can be responsible for documentation, educational programs, maintaining an official or unofficial list, communicating/cooperating with groups such as genealogists, archaeologists, and descendants.

Recommendation: Recommend that county governments create burial sites preservation boards responsible for inventorying burial sites and serving as a clearinghouse of information related to cemetery maintenance and preservation at the local level. Boards should be encouraged to consult with MCAAHC on issues related to cemeteries or burial grounds that are of historic significance to the enslaved African or African American experience in Maryland.

H. Desecration and Disturbance Are Rarely Prosecuted

Desecration and disturbance of burial sites is not a victimless crime. The consequences of these actions include not only property damage, but can also result in emotional trauma to relatives and friends of the deceased, as well as descendent communities. This is particularly true in the case of African American cemeteries, which can be targets for hate crimes and have often suffered displacement, disruption, and destruction. Increasing penalties for violations, publicizing how to report these crimes, and educating the public as well as law enforcement and State's Attorneys about how to respond to these cases is needed.

Recommendation: Increase penalties for violations of Maryland cemetery law, publicize how to report these crimes, and improve education of law enforcement, State’s Attorneys, local government code enforcement staff, and the general public on enforcement powers and processes.

I. Issues of Public Interest and Engagement

Cemeteries and burial grounds have long captured the public’s curiosity and imagination. Considered by many to be sacred spaces, these sites connect us with our collective past and allow us to reflect on the transitory nature of our lives. Many opportunities exist to improve public understanding of the history and significance of cemeteries as well as how to access and care for these cultural resources.

1. Public Access to Cemeteries

Private cemeteries, typically considered to be family burial grounds or those that are maintained by a church or beneficial society, are not accessible to the public without the consent of the landowner. However, under state law (MD Real Prop Code § 14-121 (2013)), a “person in interest” may request that an owner of a burial site or of the land encompassing the site provide reasonable access to the cemetery “for the purpose of restoring, maintaining, or viewing the burial site.” This provision of law outlines the form and substance of a cemetery access agreement to be used for access requests.

When private property owners feel comfortable with the individuals or organizations who are requesting to visit burial sites and have a clear understanding of the reason for the request, they are often willing to help. Property owners can be important sources of information about a cemetery’s history and burials at the site. Educating owners of burial grounds and descendants or others who are seeking to access these sites regarding their rights and responsibilities under the law would reduce conflicts and improve cemetery accessibility.

Recommendation: Encourage property owners to allow access to burial sites and improve accessibility of materials required by Maryland law for access requests by descendants or other persons of interest.

2. No Funding for Interpretation and Memorialization

Greater awareness of the existence of historic African American cemeteries is needed. Often invisible in the landscape, the stories of these places should be memorialized in order to educate the public and show respect for the dead. The development and installation of interpretive markers, plaques and memorials; the creation of public programming; the production of online resources such as cemetery story maps; and related publicity efforts help to improve public appreciation for the history and significance of these sites. Such education activities are among the best ways to guarantee the preservation of a cemetery.

While both African American Heritage Preservation Program (AAHPP) and Maryland Heritage Areas Authority (MHAA) grant programs can be used to support these activities in certain situations, not all cemeteries are eligible to receive funding. For AAHPP grants, cemetery projects must be primarily capital in nature. For MHAA, cemeteries must be located inside the boundary of a certified heritage area and projects typically must include a heritage tourism development component.

Recommendation: Provide funding that can be used to support historic African American cemetery interpretation and memorialization activities.

3. Lack of Opportunities for Public Service and Training

Many respondents to the survey indicated that engaging students and young people in cemetery research and cleanup activities would be welcome. Projects such as these benefit people of all ages by enhancing their understanding of how history is recorded and preserved, and improving their appreciation of the rich history of the African American community. Development of a youth stewardship program supported by a stipend or an “Adopt a Cemetery Program”² modeled after SHA’s Adopt a Highway Program are examples of creative ways to engage the public in cemetery preservation activities. MCAAHC, working with Maryland State Archives, the Maryland State Department of Education, the Coalition to Protect Maryland Burial Sites, the OCO, and other interested organizations, should identify and market opportunities to engage the public in cemetery recordation and preservation projects.

Recommendation: Identify stewardship, job training, and volunteer opportunities that will engage the public in historic African American cemetery recordation and preservation projects.

4. Need for Education, Training, and Networking

Both survey respondents and focus group participants expressed a strong desire to network with others throughout the state with a shared interest in and descendant connection with historic African American cemeteries. Similarly, there was a demonstrated interest in educational programming and training addressing cemetery research, documentation, and preservation best practices. While the Coalition to Protect Maryland Burial Sites is recognized as an important resource for these activities, creation of a network that helps connect researchers and advocates with resources related to African American cemetery issues is needed.

Recommendation: Create a Maryland African American Cemetery Network that will connect cemetery researchers and serve as a gateway to “best practice” training opportunities offered by partner organizations such as the Coalition to Protect Maryland Burial Sites, the National Preservation Institute, the Chicora Foundation, and local genealogical societies, etc.

III. Cemetery Identification, Preservation, and Commemoration Activities Around the Country

Throughout the study period, the Working Group collected information on cemetery identification, preservation and commemoration activities supported by state agencies and nonprofit partners around the country. A summary of those findings is described below while detailed information is included in Appendix 3.

For most states, “historic” cemeteries are defined as those which are at least 50 years old or older. Two states take a different approach. In Oregon, a cemetery is historic if it contains at least one burial with a date of death that is 75 years before the current date. In Virginia, historic cemeteries are those which were established prior to January 1, 1948.

² This concept was proposed in 2009 by the Advisory Council on Cemetery Operations, an appointed body which advises the OCO and the Department of Labor, Licensing and Registration on cemetery issues, but never realized.

Historic Cemetery Identification Programs

Identification and documentation of historic African American cemeteries are necessary first steps in protecting, maintaining, and interpreting these important places for families and visitors. While cemeteries are culturally significant, they are not consistently included in surveys to identify historic architecture or archaeological sites, since they fall outside of those categories. Cemetery locations are not always visible - without markers, sometimes overgrown, identification may require archival research and/or archaeology. Some surveyors have recorded cemeteries as part of church grounds or private parcels; some large, historically significant cemeteries have separate documentation, and some do not. As a result, data records are inconsistent at best.

Almost all states maintain cultural resource databases that include historic cemeteries. Only 15 states appear to maintain databases exclusively dedicated to historic cemeteries. No state appears to maintain databases exclusively dedicated to African American cemeteries. In most cases, cemetery registers are available to the public online as searchable electronic databases that include baseline documentation. Some states withhold locational data while others identify cemetery locations as points on a mapped data layer within their geographic information system.

Approximately 12 states provide historic cemetery documentation forms that are designed to collect data in a uniform manner. Forms include categories such as cemetery name, address or GPS coordinates, number of grave markers, ethnic and/or religious affiliation, documentation of architectural features and landscape design, etc. These forms are designed to be completed by community volunteers who typically submit the forms to the state historic preservation office or state historical society, which is responsible for maintaining and providing public access to the resulting cemetery inventory.

In addition to government-led cemetery identification and documentation efforts, there are statewide nonprofit cemetery preservation organizations and genealogical societies that maintain cemetery and burial lists. In some cases, access to this data is a benefit of membership. In other cases, the information is made available to the general public.

Nationally, the University of South Florida hosts the Black Cemetery Network (BCN). BCN maintains a comprehensive directory of African American cemeteries throughout the nation, including those which had been neglected, displaced, or are currently at risk of erasure. This virtual archive includes an interactive site map and accepts cemetery or sacred space registration nominations from organizations and individuals who are actively involved with these sites. Currently, the archive includes only one entry for Maryland, the Laurel Cemetery.

Internationally, Find a Grave includes data on over 530,000 cemeteries in 244 countries. This publicly accessible website, managed by [Ancestry.com](https://www.ancestry.com), organizes American cemetery data by state and county. Volunteers may upload cemetery data including locational information, photographs, and detailed information about grave records. Similarly, [Interment.net](https://www.interment.net) maintains a publicly accessible database of cemetery transcriptions that is organized by state and county. [Billiongraves.com](https://www.billiongraves.com) also includes records and images of cemeteries all over the world and includes cemetery GPS coordinates. African American cemeteries are not listed separately in these databases. Although useful research tools, it should be noted that these databases, which are crowd-sourced, can include inconsistent and inaccurate data and should be used in combination with other primary source materials.

Historic Cemetery Preservation Programs

While many states, including Maryland, administer state-funded grant programs that include cemetery preservation work as an eligible activity, only five (detailed below) maintain grant programs for the exclusive benefit of historic cemeteries. Of these, only four have ever received funding and only one (Virginia) is dedicated solely to the preservation of historic African American cemeteries.

State	Delaware	Utah	Virginia	Washington
Program Name	Distressed Cemetery Fund	Cemetery Grants	African American Cemetery and Graves Fund	Historic Cemetery Preservation Capital Grant Program
Program Location	Delaware Department of Health and Social Services	Utah Division of State History	Virginia Department of Historic Resources	Washington Department of Archaeology and Historic Preservation (DAHP)
Administration	Delaware Cemetery Board	Utah Division of State History	Virginia Department of Historic Resources	Washington Trust for Historic Preservation under contract with DAHP
Eligible Cemeteries	"Distressed cemeteries" defined as any land or structure used or intended to be used for the interment/entombment of human remains including facilities used for the final disposition of cremated remains whereby the owner lacks sufficient financial resources for the maintenance or preservation of said cemetery as determined by the Delaware Distressed Cemetery Board.	All cemeteries or burial grounds are eligible.	Cemeteries established prior to January 1, 1948, for the interment of African Americans.	Cemeteries containing 5 or more burials, with at least one burial more than 50 years old.
Eligible Activities	Capital improvements	Capital improvements and digitization of cemetery records	Vegetation management, caring for existing markers, memorials, and monuments to the memory of African Americans, erection of replacement markers, memorials, and monuments to the memory of African Americans, and hiring an experienced and professional consultant to draft a cemetery preservation plan.	Projects typically fall into one of the following categories: protection and security; restoration and preservation; and interpretative displays. Eligible projects may include but aren't limited to: security fencing or lighting; skilled monument repair; conservation of historic elements such as fencing, curbs, markers, etc.; interpretive signage; and landscape restoration. The purchase of equipment for capital improvements or to reduce overall maintenance costs may also be eligible.
Eligible Applicants	Cemetery owner or other type of applicant with notarized consent of the owner.	Municipal cemeteries, cemetery maintenance districts, endowment care cemeteries, private nonprofit-cemeteries, genealogical associations, other nonprofit groups with an interest in cemeteries, and independent researchers.	Nonprofit organization whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.	Cemetery property owners, nonprofit organizations, and local governments. Private property owners may apply provided they have a nonprofit or local government fiscal sponsor or will allow reasonable public access through a 10 year easement.
Match Required?	Cash or in-kind match required	Cash or in-kind match required. Percent of match required is based on the County Classification used by the Utah State Legislature which is based on population.	No match required.	No match required
Grant Award Cap	\$10,000	\$10,000	Funds are awarded on the basis of the number of pre-	\$50,000

			1948 graves, monuments, and markers in the qualifying cemetery multiplied by the rate of \$5. There is no grant cap.	
Grant Selection Criteria	Primary consideration is given to projects that address public safety and health concerns and that will assist in controlling future maintenance costs of the cemetery.	Not applicable	Not applicable.	Criteria include: relative historic significance of the cemetery; relative percentage of military burials in the cemetery; project impact on future maintenance and operation costs and provisions provided for long-term preservation; urgency of the project; public access of the cemetery; and extent to which the project leverages community and volunteer support.
Total Appropriation	\$100,000 annually	\$25,000 annually	\$150,000 annually	\$300,000 every three years
Source of Funds	Fund supported by \$2 fee on issuance of death certificates.	General funds		State Capital Improvements Budget

In addition to state-funded grant initiatives, there are a number of nonprofit cemetery preservation organizations around the country that offer grants for historic cemetery improvements. In Maryland, the Trader Foundation for Maryland Burial Sites, Inc., offers grants of up to \$2,000 for cemetery clean-up, gravestone conservation or restoration, restoration planning, documentation, etc. In Vermont, the Vermont Old Cemetery Association offers grants of up to \$750 for restoring abandoned or neglected cemeteries. Larger nonprofit organizations, such as the National Trust for Historic Preservation and PM, offer grants that can be used to support cemetery preservation activities, but neither maintains a grant fund dedicated solely to cemetery preservation purposes.

At the federal level, a proposal to create a historic African American cemetery grant program has been introduced in Congress. The African American Burial Grounds Act (S. 3667) would establish the “United States African-American Burial Grounds Preservation Program” within the National Park Service for the purpose of identifying, interpreting, researching, preserving, and recording unmarked, previously abandoned, underserved and other African American burial grounds.

Historic Cemetery Commemoration Programs

Three states administer signage programs that are exclusively dedicated to the identification and interpretation of historic cemeteries.

The Alabama Historical Commission maintains the “Alabama Historic Cemetery Register,” which includes all types of burial grounds, such as community, family, private, church, municipal and unmarked. Cemeteries in the register must be at least 40 years old. Once a cemetery is placed on the register, the sponsoring group or individual has the option to purchase either a historical marker or plaque from the Commission to recognize the cemetery.

The Indiana Division of Historic Preservation and Archaeology administers a “Cemetery Heritage Sign Initiative,” which is designed to “reinforce the importance of cemeteries as a resource for the interpretation of Indiana’s history; to bring attention to Indiana’s remaining cemeteries with a visual reminder of their importance; and to raise awareness of the people and groups working to preserve and maintain Indiana’s cemeteries.” Cemeteries must be included in the Indiana Cemetery and Burial Ground Registry to be eligible for a sign. Applicants for a sign are billed for its cost.

The Oregon Commission on Historic Cemeteries exists to document and support the preservation of historic cemeteries. The Commission provides signs to cemeteries designated as “historic.”

In addition to these programmatic approaches to memorializing the presence of historic cemeteries, there are numerous examples of site-specific commemoration projects designed to recognize and remember historic African American cemeteries that have been lost to neglect, disinvestment, or willful destruction. Perhaps the best known of these is New York’s African Burial Ground. This 6-acre site on Broadway included the skeletal remains of enslaved and free African Americans dating from the mid-1630s to 1795, located 30 feet below the city’s current street level. Excavation of the site for construction of a federal office building in 1991 led to the “rediscovery” of the burial grounds. Extensive consultation between the federal General Services Administration and the African American descendant community, historians, archeologists, anthropologists, and city and state political leaders followed. Project outcomes included the reinterment of the ancestral remains within the original site of rediscovery, as well as the construction of an outdoor memorial, interpretive center, and research library to commemorate the financial and physical contributions of enslaved Africans in colonial New York and honor their memory.

Closer to home, the Laboring Sons Memorial Grounds in Frederick, Maryland, was dedicated in 2001 to commemorate the cemetery established by the Laboring Sons Beneficial Society in 1851 for free Blacks in the city. The Laboring Sons Beneficial Society gifted the property to the city in 1948, with the promise that it would be restored for use as a public park and playground open to the African American residents. Instead, the cemetery was bulldozed, and the site was redeveloped for use as a playground for the benefit of white residents only. In the late 1990s, the Black Elks Lodge and descendants of those interred in the cemetery urged the city to make amends for this injustice. Over time, the city used both private and public funding, including a grant from the AAHPP, to restore the site as a memorial to those who remain interred there.

Laurel Cemetery, incorporated in 1852 as Baltimore City’s first nondenominational national cemetery for African Americans, is now occupied by the Belair-Edison Crossing shopping center. The grim history of this site serves as a prime example of how state and local government entities were complicit with private development interests in the destruction of an untold number of graves despite the protests of descendants of the interred. The Laurel Cemetery Memorial Project, a collaboration between the University of Baltimore, Coppin State University, the Community College of Baltimore County, Towson University, Morgan State University and volunteers from the Agnes Kane Callum Baltimore Chapter of the Afro-American Historical and Genealogical Society, is dedicating to telling the story of this site. Research support is also provided by the Maryland State Archives in cooperation with the Baltimore City Archives. Project partners are dedicated to public education, research into the lives buried at the site, and the erection of a memorial to recognize the burial ground.

Many other cemeteries and burial grounds, some compromised and some destroyed, exist elsewhere in the state and are equally important for commemoration. Identification of these cemeteries presents special challenges as they are often unmarked, cemetery records are missing or nonexistent, and descendants may be disconnected from the stories of their past.

IV. Designing a Grant Program for Maryland’s Historic African American Cemeteries

Key considerations in the development of any grant program include:

- who is eligible to receive grant funds,
- what the funds may be used for,
- how successful grant applications are selected, and
- who makes the funding determinations.

Answers to these fundamental questions may be addressed broadly in statute, while program regulations address program details that evolve over time as applicant needs change or new cemetery preservation technologies emerge. The recommendations outlined below are intended to be included in statute.

Eligible Cemeteries

A broad definition of what constitutes a cemetery that is eligible for funding is desirable due to the difficulties inherent in dating African American cemeteries, many of which include unmarked graves, deteriorated grave markers or scant historical documentation. The Joint Chairmen's report defined a historic African American cemetery to be "a cemetery or burial ground that is of historic significance to the enslaved African or African American experience in Maryland." The MCAAHC should decide how that significance is determined. This approach is already in place and has proved successful in determining what constitutes an eligible property for the purposes of the AAHPP.

Eligible Applicants

Eligible applicants should include nonprofit organizations, business entities, individuals, and government entities. While nonprofit organizations will likely constitute the bulk of applicants, it is helpful to have a broad range of eligible applicants since establishing ownership of and access to cemeteries can be complicated.

Nonprofit organizations should not be defined in statute as 501(c)(3) organizations since the most likely applicants for these grants - churches and cemetery preservation organizations - may not meet that requirement. Churches are considered by the IRS to be nonprofit organizations but are not required to file for recognition as a 501(c)(3). Most cemetery preservation organizations are established under IRS rules as 501(c)(3) organizations.

Eligible Activities

The grant program should allow both capital and non-capital activities to support the broad range of historic cemetery needs identified through the survey and focus group responses. These needs include, but are not limited to:

- Site stabilization and erosion control
- Routine maintenance including mowing, trimming of vegetation, or planting of vegetation
- Historical research and digitization of records
- Conservation/cemetery maintenance workshops
- Legal aid to clear title and establish cemetery ownership
- Cemetery mapping and documentation
- Preparation of cemetery assessment/conservation plans
- Tree removal
- Installing fencing

- Cleaning existing markers, memorials and monuments
- Inventorying known and identifying unmarked burials within a cemetery or burial ground
- Developing and installing historic markers and interpretative signage
- Re-setting and repair of markers, memorials and monuments
- Erection of missing markers
- Conservation of ironwork

The statutory language of the grant program should be broad, addressing the three general categories of need – 1) identification, research and documentation; 2) preservation and restoration; and 3) interpretation and commemoration. Grant program regulations developed by the entity responsible for administering the program may provide greater specificity regarding program priorities or eligible types of activities in each of these categories.

Currently, only capital cemetery preservation activities (for example, monument or fencing repair, sign construction, etc.) are eligible under the AAHPP because the funding source is General Obligation bonds, which preclude funding for non-capital projects. The funding source for the proposed program should allow for a flexible range of activities to meet the established needs.

Matching Funds

Survey and focus group respondents were unanimous in recommending against a requirement for matching funds. In many cases, the deterioration of historic cemeteries is directly related to caretaking organizations' lack of resources. Grant match requirements would restrict access for eligible applicants and place an undue hardship on organizations that are already in need.

Program Administration

Survey and focus group responses expressed strong support for the MCAAHC taking the lead role in historic African American cemetery research and preservation issues. With that in mind, administration of the Historic African American Grant Program by the MCAAHC is recommended. Staffing increases at MCAAHC may be necessary to absorb this new responsibility.

Grant Selection Criteria

Although grant selection criteria was not explicitly addressed in survey and focus group responses, grant rating and ranking criteria could be modeled after the AAHPP and include:

- the public necessity and urgency of a project;
- the need for additional sources of funding for a project;
- the estimated cost and timeliness of executing a project;
- geographic diversity; and
- any other criteria determined to be relevant.

This final criterion provides the entity rating and ranking grant applications with the flexibility to identify funding priorities that may change from year to year as needs arise.

Funding Decisions

The MCAAHC is the entity that is most familiar with historic African American cemeteries and the descendant communities associated with them. In addition, the MCAAHC has experience rating and

ranking grant applications considered under the AAHPP. For those reasons, the MCAAHC is best suited to make funding decisions under this grant program.

Cemetery Access and Owner Consent

Prior iterations of the Historic African American cemetery legislation have required owners of historic African American cemeteries to cooperate with entities that receive grant funds to maintain the cemetery. Support for this type of requirement was expressed in the study survey and focus group responses. However, such a provision would conflict with current state law regarding cemetery access, which states that owners of a burial site or of the land encompassing a burial site may, but are not required to, grant “reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site.” *See* Md. Code Ann., Real Property § 14-121. A change to the existing law would be necessary in order to make such a requirement enforceable. Lacking such a change in statute, property owners should be strongly encouraged to work cooperatively with descendant communities and cemetery preservation organizations who are seeking to undertake cemetery preservation activities.

V. MCAAHC Partnership Opportunities with Direct Descendants

The mission of the MCAAHC is broad, encompassing a commitment to “discovering, documenting, preserving, collecting, and promoting Maryland’s African American heritage” as well as providing technical assistance to institutions and groups with similar objectives. MCAAHC can play a significant role in partnering with direct descendants of those interred in historic African American cemeteries and burial grounds by providing the following:

- Professional development programming, oral history projects, and workshops led by commissioners and direct descendants
- Advocacy work about funding and support for African American cemeteries

Appendix 1: Historic African American Cemetery Survey Instrument

Appendix 2: Inventory of State Cemetery Identification, Preservation and Commemoration Programs

Appendix 3: Survey of State and Local Cemetery Law in Maryland

Appendix 1



Historic African American Cemeteries: Survey of Funding Needs and Preservation Obstacles

We want to hear from you! Please complete this survey to help us research the needs and opportunities facing historic African American cemeteries in the state. (To complete the form online, take a photo of the QR code on the right with your phone.) Responses will inform a report in spring 2022, recommending actions to help protect and preserve these important sites. For more details about the project, please visit <https://bit.ly/3ECnmmV>.



PART 1: GENERAL INFORMATION

1. For each of the obstacles listed below, please indicate if this is a high-, medium-, or low-level concern for historic African American cemeteries or burial sites in your community.

Obstacles	High	Medium	Low	I don't know
Abandonment				
Lack of maintenance				
Vandalism				
Development pressure				
Uncooperative owner				
Unknown owner				
Cemetery location/burial location(s) unknown				
Missing or deteriorated records related to cemetery/burial site				
Missing grave markers				
Other (write in)				

2. If funding becomes available, what types of projects should receive support? Please indicate high, medium, or low priority.

Projects	High	Medium	Low	I don't know
Maintenance of grave markers and grounds				
Mapping and identifying grave sites				
Research on cemetery history and interments				
Documentation for regulatory protection by local government				
Digitization of archival records, including funeral home records				
Research for owner identification				
Legal fees to clear title, develop stewardship agreements, etc.				
Other (write in)				

3. Besides funding, what types of assistance are needed to support cemetery or burial site preservation in your community (for example: volunteers, best practices for maintenance, networking with other groups)?

4. Are you associated with a particular African American cemetery or burial site? (If the answer is "yes," please continue to Part 2 of the survey, following Question 5. If "no," you may submit your survey after you complete Question 5.)

Yes

No

5. Is there any additional information you would like to share with us today?

PART 1: SPECIFIC CEMETERY INFORMATION

This section should be completed by individuals with an association or interest in one or more African American cemeteries or burial sites. If this does not apply to you, please leave this section blank.

6. Please share the name and/or a description of the cemetery or burial sites with which you are associated. If you are associated with multiple sites, please list them out here.

7. This cemetery is located in the following county (circle all that apply):

Allegany	Anne Arundel	Baltimore City	Baltimore County	Calvert	Caroline	Carroll	Cecil
Charles	Dorchester	Frederick	Garrett	Harford	Howard	Kent	Montgomery
Prince George's	Queen Anne's	St. Mary's	Somerset	Talbot	Washington	Wicomico	Worcester

8. Have there been efforts to preserve and maintain this cemetery? If yes, please describe the types of activities or maintenance undertaken.

Yes

No

I don't know

Multiple sites (add notes below)

9. Has the cemetery benefited from state funding to support preservation activities?

Yes

No

I don't know

Multiple sites (add notes below)

10. Would you like to provide information about your cemetery/cemeteries or cemetery preservation efforts to benefit this project?

Yes

No

11. Are you a member of a descendent community associated with a Maryland African American cemetery or a descendent of an individual interred in an African American cemetery?

Yes

No

12. If you answered "yes" to Questions 10 or 11, and would like to continue to receive invitations to participate in this project, please provide your name and organization/affiliation (if applicable) and contact information here.

Thank you for taking this survey!

If returning by mail, please send to the following address by **February 28, 2022**:

ATTN: Cemetery Survey

% Maryland Commission on African American History and Culture

Banneker-Douglass Museum

84 Franklin St, Annapolis, MD 21401

Appendix 2: State Government Data Spreadsheet

State Government Cemetery Identification and Preservation Programs				
State	Dedicated Inventory	Protections Through State Law	Financial Assistance	Additional Comments
Alabama	The Alabama Historical Commission maintains the "Alabama Historic Cemetery Register." In order to be included in the register, an "Alabama Historic Cemetery Register Application" must be completed and submitted. While a cemetery must be at least forty years old to qualify, the register can and does encompass all types of burial grounds, whether community, family, private, church, municipal, or even unmarked. This information is made available to the public through the Commission's online GIS-based database and as a county by county list that is also accessible online. The Black Heritage Council advises the Commission on the preservation of historic African American sites including cemeteries. The non-profit Alabama Cemetery Preservation Alliance also maintains a cemetery register which can be accessed for free online.	Alabama cemetery law can be found here: https://ahc.alabama.gov/cemeteryprogramPDFs/2021_Alabama_Burial_Law_(%C2%A713A-7-23_%201_as_amended_2010).pdf ; https://ahc.alabama.gov/cemeteryprogramPDFs/2021_Cemetery_Access_(Code%20of%20Alabama%20%C2%A735-1-4).pdf	Historic cemeteries are eligible to apply for grant funds from the Alabama Historical Commission. Eligible cemetery projects include grave marker cleaning and repair; fence repair, and removal of vegetation necessary for cemetery preservation.	Once a cemetery is placed on the "Alabama Historic Cemetery Register," the sponsoring person or group has the option to purchase either a historical marker or plaque displaying Alabama's unique cemetery seal. The Alabama Historical Commission has published <i>Alabama's Historic Cemeteries: A Basic Guide to Preservation</i> which is available online.
Alaska	None identified		None identified	
Arkansas	None identified. However, the Arkansas Archeological Survey staff can assist individuals and local groups in mapping and documenting historic cemeteries and providing advice on protecting and preserving cemeteries as historic sites.	https://www.arkansasheritage.com/arkansas-preservation/programs/cemetery-preservation/arkansas-cemetery-laws	The Arkansas SHPO Historic Preservation and Restoration Grant Program has, in the past, offered grants of \$5,000 to \$9,999 for approved restoration projects for cemeteries listed on the National Register of Historic Places. The Arkansas Humanities Council offers minigrants for cemetery preservation and documentation, fencing, and gravestone repair. The Arkansas State Archives' Curtis H. Sykes Memorial Grant Program supports projects that preserve African American history and has provided funding to projects that preserve and document historic African American cemeteries.	The Arkansas Historic Preservation Program published <i>Grave Concerns: A Preservation Manual for Historic Cemeteries in Arkansas</i> which is available online. In addition, the Arkansas Archeological Survey publishes a brochure on cemetery preservation which is also available online.
Arizona	The Arizona SHPO, in coordination with the Pioneers' Cemetery Association and other volunteers, created the "Inventory of Historic Arizona Cemeteries." The SHPO provides a "Historic Property Inventory Form for Cemeteries and Graves" which is to be used to document and record historic cemeteries. This inventory is available to the public online through the SHPO website.		None identified.	The Arizona State Parks Board published <i>Places to Remember: Guidance for Inventorying and Maintaining Historic Cemeteries</i> .
California	None identified.		None identified.	
Colorado	None identified.		The Colorado Historical Society's State Historical Fund can be used to support historic cemetery restoration projects.	The Colorado Cemetery Records Preservation Project, led by the non profit Colorado Historic Cemetery Association, is leading a collaborative effort to inventory and permanently preserve cemetery records.

Connecticut	The Connecticut Cemetery Survey Form, developed by the Connecticut SHPO in 2019, provides a standardized format for recording the past and present character of cemeteries and burying grounds dating from the 17th century to the present. This form is currently being reformatted for use with a geospatial database that is under development.	State law protects Connecticut's ancient burial grounds and historic grave markers and mandates the respectful renovation and maintenance of historic cemeteries. These protections cover any tract of land within a municipality that has been used as a burial ground for more than 100 years, which is defined as an ancient burial ground.	None identified.	A publication, entitled <i>Researching Connecticut's Historic Cemeteries: An Annotated Reference Guide</i> was prepared in 2019 by the Connecticut SHPO and is available online.
Delaware	All cemeteries, such as family, inactive, abandoned, small, and church cemeteries – as well as cemeteries located on government land – are required by law to register with the Delaware Cemetery Board which is part of the Delaware Division of Public Health. In addition, the DE SHPO maintains a database of all cemeteries in Delaware.		The Distressed Cemetery Fund (Fund) is a State of Delaware fund established under the Delaware Department of Health and Social Services (DHSS), Division of Public Health (DPH), Delaware Health Statistics Center (DHSC), to assist owners or volunteers of cemeteries, which meet the definition of a distressed cemetery, who do not have the necessary funds to complete work that is needed to improve conditions. Matching grants of up to \$15,000 are available. The Fund is supported by a \$2.00 fee required for each copy of a certificate of death. Individuals and organizations may also make contributions or bequests to the Fund. For the last several years the Fund has received \$100,000 from the State.	
Florida	The Bureau of Historic Preservation, Division of Historical Resources, under the Florida Department of State, has developed a "Historical Cemetery Form" for use in documenting historic cemeteries. This information is incorporated into the Division's Florida Master Site File which is accessible to the public upon request.	https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/what-are-the-applicable-laws-and-regulations/	The Florida Bureau of Historic Preservation Historic Preservation Grants Program can be used to assist historic cemeteries with work on stabilizing, cleaning and repairing historic gravemarkers and other funerary items, repairing historic fences or structures within the cemetery, and installing minimal security lighting.	Funded in part by the Florida Division of Historic Resources, the publication <i>Florida's Historic Cemeteries: A Preservation Handbook</i> is available online here: https://files.floridados.gov/media/31938/floridahistoriccemeteries.pdf . The publication <i>Historic African American and African Caribbean Cemeteries: A Selected Bibliography</i> is also available on the Division's website. Florida passed House Bill 37 in 2021 which created the Abandoned African American Cemeteries Task Force charged with studying the extent to which unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state; and developing and recommending strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased. The Task Force final report was completed in December and is available here: https://files.floridados.gov/media/705214/hb-37_task-force-on-abandoned-african-american-cemeteries_report_12-17-2021.pdf
Georgia	Some county governments have completed county-wide cemetery surveys but there is no dedicated state inventory.		None identified.	The non-profit Georgia Municipal Cemetery Association is a recognized resource for cemetery professionals, historians and preservationists interested in cemetery preservation, advocacy and education.

Hawaii	The HI Historic Preservation Division manages burial sites over 50 years old. Five "Island Burial Councils" are administratively attached to the division to address concerns relating to Native Hawaiian burial sites. A Hawaii Cemetery Index, developed by historian Nanette Napoleon, is maintained by the University of Hawaii at Manoa Library.		None identified.	
Idaho	None identified.		None identified.	
Illinois	None identified.	An overview of state laws protecting cemeteries can be found here: https://www2.illinois.gov/dnrhistoric/Preserve/Cemetery/Pages/LAWS.aspx	None identified.	The Illinois Historic Preservation Agency has published two handbooks on cemetery preservation which are available online: 1.) <i>Illinois Historic Cemetery Preservation Handbook: A Guide to Basic Preservation</i> , and 2.) <i>Cemetery Preservation Training, Part I: Basic Workshop</i> .
Indiana	The Department of Historic Preservation and Archaeology has created a searchable database entitled the "Cemetery and Burial Ground Registry" which includes location information and survey data on each cemetery and burial ground in the state. Volunteers are assisting in completing cemetery survey forms which record the cemetery's location, the number of grave markers, a general assessment of the cemetery's condition, ethnic and/or religious affiliations, special groups represented such as veterans, and architectural features such as wrought iron fences, statuary, mausoleums, and formal landscape designs.	Laws regarding Indiana cemeteries can be found here: https://www.in.gov/dnr/historic-preservation/files/laws_cem.pdf	The Division of Historic Preservation and Archaeology administers a "Cemetery Heritage Sign Initiative" which funds the creation of special signs to commemorate and mark historic cemeteries.	
Iowa	None identified.	In 1996 Iowa passed legislation authorizing the County Board of Supervisors to appoint a Cemetery Commission of volunteers to assume jurisdiction and management of the Pioneer Cemeteries in the county. A "Pioneer Cemetery" is defined as a cemetery where there have been 12 or fewer burials in the preceding 50 years. https://www.legis.iowa.gov/docs/code/331.325.pdf	None identified.	
Kansas	The Kansas Historical Society maintains a cemetery database based on a listing of cemeteries that was prepared in 1906 which is accessible online.	The Kansas Unmarked Burials Act protects unmarked burials and the human remains and associated objects that come from these burials. Cemeteries that are known and marked, yet abandoned, are addressed by a separate set of laws. Links to these statutes can be found on the Kansas Historical Society website here: https://www.kshs.org/p/unmarked-burial-sites-preservation/14677	None identified.	
Kentucky	The Kentucky Heritage Council (SHPO) provides a "Cemetery Survey Form" for use in documenting cemeteries. The non profit Kentucky Historical Society coordinates the ongoing, volunteer led "Kentucky Cemetery Census" which encourages local history groups around the state to identify and document historic cemeteries.		None identified.	The Kentucky Historical Society administers an "Adopt-a-Cemetery Program" and a "Pioneer Cemetery Program" which includes the opportunity for the purchase of historic markers for those cemeteries that are so designated.

Louisiana	The 2010 Louisiana Historic Cemetery Preservation Act gave full responsibility for abandoned cemeteries, unmarked graves, and burials to the Division of Archaeology which is located within the Department of Culture, Recreation and Tourism. The Act created the Louisiana Historic Cemetery Trust Advisory Board, responsible for identifying the need for an inventory of those historic cemeteries and burials to be regulated by the Department and for maintaining such an inventory. Due to staff and funding limitations, an inventory has not been created to date.	The Louisiana Historic Cemetery Preservation Act also includes a definition of "unlawful acts" and "civil remedies" https://www.crt.state.la.us/cultural-development/archaeology/CRM/state-legislation/chapter-21-B/index	The Louisiana Historic Cemetery Preservation Act created the Historic Cemetery Trust Fund to be administered by the Louisiana Historic Cemetery Trust Advisory Board. No monies have been appropriated into the Fund.	
Maine	The Maine Old Cemetery Association, a private non profit organization, maintains a members-only cemetery lookup database which is available online.	The Maine Old Cemetery Association maintains a list of Maine Revised Statutes relating to cemeteries: https://moca-me.org/cemetery-law . Additional information can be found here: https://www.maine.gov/dhhs/mecdc/environmental-health/plumb/burial/forms/maine-statutes.pdf	None identified.	
Maryland	The Office of Cemetery Oversight is required by law to conduct an inventory of all known burial sites in the State and update the inventory every 5 years; the OCO inventory includes 5,366 entries for cemeteries and burial grounds ranging from large commercial cemeteries to small, family plots. Other state agencies, including the Maryland Historical Trust, State Highway Administration, and Banneker Douglass Museum maintain information on cemeteries as well.	The Maryland Historical Trust maintains information about Maryland law related to historic cemeteries on its website: https://mht.maryland.gov/documents/PDF/research/Burial_Law.pdf .	The African American Heritage Preservation Program, administered jointly by the Maryland Commission on African American History and Culture and the Maryland Historical Trust, provides grants for capital cemetery preservation activities only. The Trader Foundation for Maryland Burial Sites, a non profit organization, provides grants for both capital and non capital cemetery preservation activities.	The Coalition to Protect Maryland Burial Sites, a non profit organization, hosts an annual conference, provides workshops and trainings, and is a statewide resource for cemetery advocates.
Massachusetts	The Massachusetts Department of Conservation and Recreation maintains an interactive, map based "Heritage Landscape Atlas" which includes known burial sites. The Massachusetts Historical Commission's Survey and Inventory Program provides a dedicated form for documentation of burial grounds. This information is available through the online MACRIS database.	Massachusetts Historical Commission has a list of laws and regulations pertaining to burial grounds on its website – http://www.sec.state.ma.us/mhc/mhcleg/legidx.htm . Appropriate Mass. General Laws are online here: http://www.malegislature.gov/Laws/GeneralLaws/Se arch .	The Massachusetts Preservation Projects Fund (MPPF) can provide funding for the repair of gravestones and monuments. Community Preservation Act funds are often used to restore historic burial grounds.	The Massachusetts Historic Cemeteries Preservation Initiative was created in 1999 and led to the publication of <i>Preservation Guidelines for Municipally Owned Historic Burial Grounds and Cemeteries</i> and <i>Terra Firma 10 Mourning Glory: Preserving Historic Cemeteries</i> .
Michigan	None identified.		None identified.	<i>Michigan Historic Cemetery Preservation Manual</i> was published in 2004 with support provided by NPS and the Michigan SHPO.
Minnesota	One of the duties of the Minnesota Office of the State Archaeologist (OSA) is to authenticate all unrecorded burial sites over 50 years old. OSA maintains a database of the state's identified archaeological sites, which are defined as including burial grounds, in collaboration with the Minnesota State Historic Preservation Office (SHPO). These burial site files may only be accessed at the OSA office.	The Minnesota Private Cemeteries Act protects all human burials or skeletal remains on public or private land. See also - https://www.mncemeteries.org/about - Minnesota Statutes Chapter 307 – private cemeteries; Minnesota Statutes Chapter 306 – public cemeteries.	None identified.	

Mississippi	None identified.	In 1971, the Mississippi Legislature passed a law to allow county boards of supervisors, at their discretion, to spend public funds on the maintenance and upkeep of public or privately-owned abandoned cemeteries. To qualify as an "abandoned" cemetery, the cemetery must meet the "Criteria for the Certification of Historical Significance of Abandoned Cemeteries," in accordance with House Bill 780, Laws of Mississippi, 1971, and approved by the Mississippi Department of Archives and History Board of Trustees.	None identified.	
Missouri	The Missouri SHPO provides a cemetery survey form and a cemetery marker survey form. Once completed, these forms are included in the SHPO's architectural inventory.	https://law.justia.com/codes/missouri/2017/title-xii/chapter-214/	None identified.	
Montana	None identified.		The Montana History Foundation, a non profit organization, offers grant funding to support the identification, restoration, research, and interpretation of historic cemeteries and sacred sites.	
Nebraska	History Nebraska, an independent state agency, maintains an online searchable cemetery database - the Nebraska Statewide Cemetery Registry.		None identified.	
Nevada	None identified		None identified.	
New Hampshire	The New Hampshire Old Graveyard Association is a non-profit organization dedicated to preserving the historical graveyards of New Hampshire. The Association maintains an online "Master Burial Site Index."	http://www.nhoga.com/rsa_links.htm	None identified.	
New Jersey	None identified		None identified.	
New Mexico	None identified		None identified.	
New York	The Division of Cemeteries oversees the establishment, maintenance, and preservation of burial grounds for approximately 1,700 not-for-profit cemeteries in New York State. The Division maintains a publicly accessible database of documented New York cemeteries on its website.		None identified.	
North Carolina	The North Carolina Cemetery Survey is a program for recording vital statistics from the state's cemeteries. It operates at the county level and is coordinated through the State Archives at the state level. Both a "Citizen Cemetery Site Form" and "Professional Cemetery Site Form" are available on the NC DCNR website. Data compiled in the North Carolina Cemetery Survey are available in the Search Room of the North Carolina State Archives.	Links to general statutes protecting cemeteries can be found here: https://archaeology.ncdcr.gov/programs/cemeteries	None identified.	
North Dakota	None identified		None identified.	

Ohio	At the state level, the Ohio Genealogical Society is the leading advocate for cemetery preservation. Their website includes an online database of documented cemeteries dating from 1803-2003 which location information.	Ohio laws pertaining to cemeteries under the jurisdiction of townships can be found in Ohio Revised Code (ORC) Chapter 517; ORC Chapter 759 pertains to cemeteries under the jurisdiction of municipalities (cities, villages and joint municipal/township cemeteries); ORC Chapter 1721 pertains to cemeteries under the jurisdiction of (private) cemetery associations. According to ORC Chapter 2909.05, vandalism and other offenses against burial places is a fourth degree felony. Additionally, violations of ORC Chapter 2927.11, defacing commemorative markers, is a second degree misdemeanor.	None identified.	
Oklahoma	The Oklahoma SHPO provides a "Historic Preservation Resource Identification Form for Cemeteries." Once completed, information about the cemetery is included in the Oklahoma Landmarks Inventory (OLI) which is an online searchable database. The Oklahoma Historical Society also maintains "The Oklahoma Cemetery Indexes" which is organized by county and includes the names and locations of cemeteries identified to date and can be accessed at the Oklahoma History Center. The Historical Society also maintains an online catalogue which includes information from cemetery canvas projects and other records.	Overall, cemeteries in Oklahoma are not regulated; however, Title 8 of the Oklahoma State Statutes (OSS) concerns cemetery corporations and associations and related issues. Also, OSS Title 21 § 1168.1-7 addresses issues related to human skeletal remains and associated burial furniture (http://www.oscn.net).	None identified.	
Oregon	The Oregon Commission on Historic Cemeteries exists to document and support the preservation of historic cemeteries. The Commission maintains a list of historic cemeteries which is available to the public on its website. The Commission provides a form to be used in order to designate a cemetery as historic. In addition, information on cemeteries that are documented as part of the Oregon SHPO statewide inventory is available to the general public online through its map based "Historic Sites Database."	Oregon state laws pertaining to historic cemeteries can be found here: https://www.oregon.gov/oprd/OH/Documents/HB01_Cemetery_Law.pdf	The Oregon Historic Cemeteries Program, created by the Oregon legislature, provides resources including grants to people and organizations caring for the cemeteries. Any cemetery that has at least one burial of a person who died before that date that is 75 years before the current date and is listed with Oregon Commission on Historic Cemeteries, is historic.	The Oregon Commission on Historic Cemeteries provides signs to those cemeteries that have been designated as historic.
Pennsylvania	The Pennsylvania Historical and Museum Commission provides a "Cemetery General Survey Form." Once completed, the documented cemetery is given a site code and included in the map based Cultural Resources GIS system (CRGIS) and is available to subscribers online through PA-SHARE.		Although there are no cemetery specific grant programs, PHMC offers "Historical and Archival Records Care Grants" and grants for other types of non capital and capital historic preservation projects for which historic cemeteries may be eligible.	
Rhode Island	The Rhode Island Historic Cemetery Commission is a permanent advisory commission created to study the location, condition, and inventory of historical cemeteries in Rhode Island and to make recommendations to the general assembly relative to historical cemeteries in Rhode Island. The Commission maintains an online cemetery database which is available to the public. This ongoing project relies on volunteers.	https://preservation.ri.gov/sites/g/files/xkgbur406/files/pdfs_zips_downloads/archaeology_pdfs/120509cemetery-regs.pdf	None identified.	

South Carolina	None identified	Links to SC cemetery laws can be found here: https://scdah.sc.gov/historic-preservation/technical-assistance/cemeteries	None identified	The South Carolina SHPO has published a number of guidance documents for cemetery preservation which are available online: <i>Preservation Hotline #6: FAQ About Cemetery Preservation</i> , <i>Preservation Hotline #7: Grave Concerns: Protecting and Repairing Historic Cemeteries</i> (PDF), <i>Silent Cities: Cemeteries & Classrooms</i> (PDF), <i>South Carolina's Historic Cemeteries: A Preservation Handbook</i> (PDF).
South Dakota	None identified		None identified.	
Tennessee	The Tennessee Historical Commission maintains a Historic Cemetery Register. The cemetery register does not include data on prehistoric or Colonial era Native American burials. A GIS-based map which will identify the location of cemeteries in the database is under development now. Cemetery GPS coordinates are not shared with the public due to privacy concerns.	All human remains—whether modern or prehistoric—are protected under state law. Most of the state's cemetery laws can be found in Tennessee Annotated Code Title 46, Chapters 4 & 8 and in precedents set by the <i>Walter Hines v. State of Tennessee</i> (1911) decision.	The State of Tennessee does not offer grants for cemetery preservation and maintenance at this time.	
Texas	The Texas Historical Commission's Cemetery Preservation Program works with partners to identify and map cemetery locations. This statewide inventory of known cemetery locations is made available to the public through the online cultural resources database known as the "THC Historic Sites Atlas." The THC provides forms for documenting cemetery discoveries, including an "Archeologist's Notice of Existence of Cemetery Form," a "Filing Notice of Unverified Cemetery," and "Notice of Existence of Cemetery Form" - all of which are to be completed and submitted to the THC.	Most of the Texas laws regarding historic cemeteries are in Chapters 711–715 of the Texas Health and Safety Code; Title 13, Part 2, Chapter 22 of the Texas Administrative Code; and sections of the Penal Code. Section 711.011 of the Texas Health and Safety Code includes a requirement for the recording of abandoned or unknown cemeteries with the county clerk in the county in which the cemetery is located and concurrently alerting the current landowner of the filing. The THC provides forms for the recording of unknown or abandoned cemeteries that may be used to fulfill this requirement. Section 711.0111 of the Texas Health and Safety Code includes a process for the Texas Historical Commission (THC) to review evidence of unverified cemeteries; the THC provides forms that may be used to fulfill this requirement as well.	Cemeteries that participate in the "Historic Texas Cemetery Designation Program" may apply for an official Texas Historical Marker for the cemetery.	The Texas Historical Commission created a "Historic Texas Cemetery Designation Program" in 1998 to help protect historic cemeteries by recording cemetery boundaries in county deed records to alert present and future owners of land adjacent to the cemetery of its existence. A cemetery is eligible for designation if it is at least 50 years old and deemed worthy of recognition for its historical associations. In addition, the THC published the booklet <i>Preserving Historic Cemeteries: Texas Preservation Guidelines</i> to assist with cemetery preservation efforts.
Utah	The Utah Division of State History maintains a searchable public database of cemeteries which is updated monthly and available online.		The Utah Division of State History administers a grant program that assists with cemetery preservation, cemetery record digitization and GIS mapping. These matching grants are capped at \$10,000 per project.	
Vermont	The Vermont Old Cemetery Association (VOCA), a private non profit organization, maintains an online database of known cemeteries with GPS coordinates. The Vermont SHPO does not maintain a separate historic cemetery database but uses the NCPTT cemetery survey form when documenting cemeteries: https://www.nps.gov/articles/000/upload/NCPTT-CEMETERY-SURVEY-FORM.pdf		VOCA awards grants for restoring abandoned or neglected cemeteries.	

Virginia	<p>The Virginia SHPO provides a "Citizens Cemetery Recordation Form" for use in documenting cemeteries. Information provided on these forms is integrated into the SHPO's map based cultural resource database (VCRIS) which is online and available to the public. A version of the recordation form is now available for use with a mobile device.</p>		<p>The Virginia SHPO administers the Virginia Historical African American Cemetery and Graves Fund which provides funds for the care and maintenance of cemeteries established prior to January 1, 1900 for the interment of African Americans. The SHPO also administers the Revolutionary War Graves and Cemeteries Fund for the maintenance and care of Revolutionary War patriot graves.</p>	
Washington	<p>The Washington State Department of Archaeology and Historic Preservation (DAHP) provides two forms – one for the general public and one for the professional archaeologist – to record a cemetery or gravesite. The "Cemetery Inventory Form" is for use by the general public. The "Archaeological Site Form" is to be completed by professional archaeologists for all cemeteries, regardless of age, size or condition. Cemetery information provided to DAHP is included in the state's digital database, WISAARD, which can be accessed through the internet. Data on cemeteries that include Native American burials or that are located on archaeological sites is not available to the general public.</p>		<p>The Historic Cemetery Preservation Capital Grant Program is a program of the Washington State Department of Archaeology & Historic Preservation (DAHP). Management of the grant portion of the program is provided by the non-profit Washington Trust for Historic Preservation under contract with DAHP. Funds may be used for construction, renovation, or rehabilitation projects that preserve the historic character, features and materials of the cemetery or that maintain and improve the functions of the cemetery. In addition, the state funds a "Human Skeletal Remains Assistance Account". Funds from the account may only be used for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. The primary purpose of the account is to cover the costs of recovery, reburial, erosion control, reinterment, or other expenses deemed by the Director of DAHP to be essential to the resolution of a case involving the inadvertent find of human skeletal remains.</p>	
West Virginia	<p>WVA SHPO provides a "Cemetery Inventory Form" to be used for documentation of historic cemeteries and maintains this data within its inventory of historic properties. This inventory is available through an online map based database but access to cemetery data is restricted to professional archaeologists who meet the Secretary of the Interior's Professional Qualification Standards.</p>	<p>http://www.wvlegislature.gov/WVcode/code.cfm?chap=37&art=13A</p>	<p>Development grants are available from the WVA SHPO for the rehabilitation of structures located within those cemeteries that are listed on the National Register of Historic Places only. No funds are provided for general maintenance.</p>	

Wisconsin	<p>The Wisconsin Historical Society maintains the "Wisconsin Burial Sites Catalog" which is an electronic list of human burial sites. It is mainly used to determine which level of protection a burial site should receive under Wisconsin State Law. The list is also used to determine which landowners are eligible for a Wisconsin property tax exemption. Cataloged sites receive a higher degree of protection under state law, and their owners are eligible for property tax exemptions. Not all human burial sites in Wisconsin have been cataloged. Information in the burial sites catalog is confidential and exempt from open records requests. State law (Wis. Stats. 157.70) requires the Wisconsin Historical Society to maintain the catalog. It is part of the Wisconsin Archaeological Sites Inventory (ASI) in the Wisconsin Historic Preservation Database (WHPD).</p>	<p>The 1985 Wisconsin Act 316 (PDF, 448 KB) provides for: 1.) Legal protection for burial sites that do not look like modern cemeteries, and; 2.) Upholds the ideal that all human burial sites should be accorded equal treatment no matter how old they are or who created them. Information on Wisconsin burial laws can be found here: https://www.wisconsinhistory.org/Records/Article/CS3122</p>	<p>Property owners in Wisconsin who have a human burial site on their property, may be eligible for a tax exemption for the land associated with the burial site. Wisconsin does not appear to offer grant programs that assist with cemetery or burial site identification, restoration or research.</p>	
Wyoming	None identified	https://law.justia.com/codes/wyoming/2010/Title35/chapter8.html	None identified	

Appendix 3

TO: Historic African American Cemetery Study Committee
FROM: Scott F. Travers, Legal Intern, Maryland Department of Planning
THRU: Paul J. Cucuzzella, Counsel, Maryland Department of Planning
DATE: July 9, 2021
RE: Survey of State and local cemetery law in Maryland

This is a survey of enacted law in the State of Maryland affecting cemeteries, with a focus on (i) access to, (ii) maintenance of, and (iii) record-keeping requirements for cemeteries and cemetery owners and operators. Part I discusses State law, Part II summarizes the law of Maryland's 23 counties and the City of Baltimore, and Part III looks at the State's next five largest municipalities. The attached chart of "[Cemetery Law Research Summary](#)" encapsulates county and municipal enactments regarding cemeteries.

I. State Law.

In 1997, the General Assembly passed the Maryland Cemetery Act ("the "Act") which, among other things, established: (i) permitting requirements for cemetery operators; (ii) contracting requirements and consumer protection mechanisms; and (iii) the Office of Cemetery Oversight¹. The Act include no significant provisions regarding access to cemeteries; State law concerning access is limited and mostly relates to the conduct of property developers.

The Act imposes differing requirements on cemeteries depending on the nature of cemetery ownership and operation. MD. CODE ANN., BUS. REG. ("BR") § 5-102(a). A cemetery is exempt from some of the Act's mandates, including its "registration and permitting" requirements, if the cemetery is: (i) a religious non-profit cemetery; (ii) owned by a county or municipality; (iii) a State veterans cemeteries; (iv) a private family cemetery; or (v) owned by non-profit groups that were created before 1900 by an act of the General Assembly. *Id.* Exempt cemeteries are not subject to

¹ The Office of Cemetery Oversight, "the provisions in this title relating to the Office [of Cemetery Oversight]," and any regulations it established are set to terminate on July 1, 2023, subject to the evaluations and provisions of the Maryland Program Evaluation Act. MD. CODE ANN., BUS. REG. § 5-1002.

the same level of oversight and record-keeping as non-exempt cemeteries. *Id.* §§ 5-204(i)(1)(i)-(iii), § 5-304(a) (requiring non-exempt applicants for cemetery registration, who expressly or impliedly communicate to the public that a cemetery will receive perpetual care, must demonstrate financial stability in order to receive its registration); MD. CODE ANN., BUS. REG. § 5-311(c)(3) (barring the Director of the Office of Cemetery Oversight from either referring a complaint to the Office of the Attorney General or the Office of Administrative Hearings for binding arbitration, or initiating an investigation when dealing with exempt cemeteries); PRINCE GEORGE’S COUNTY, MD. CODE 38 § 2-476.

a. RECORD-KEEPING REQUIREMENTS.

The Maryland Cemetery Act requires cemetery operators and the Director of Cemetery Oversight to keep extensive records on cemeteries and those in charge of the property. The Director is required to update an annual list of all “registrants and permit holders,” “all for-profit cemeteries and nonreligious-nonprofit cemeteries associated with a registrant or permit holder,” and “all bona fide religious-nonprofit cemeteries, veterans' cemeteries, and local government-owned cemeteries” that have filed certain required reports. BR § 5-204 (i)(1)(i)-(iii). Every five years the Director must conduct an inventory and make a report to the General Assembly “of all known burial sites in the State,” including all of types of cemeteries that are exempt under BR § 5-102(a) and BR § 5-204(i)(1)(i)-(iii). BR § 5-204(l)(1).

Non-exempt cemeteries must provide much of the relevant information related to record-keeping on the applications they must file in order to conduct business. See BR § 5-301. Applications for permits and registration must include the name and address of the individual responsible for operating the cemetery and a demonstration of financial stability if the cemetery has intimated or expressly communicated the cemetery will receive “perpetual care.” *Id.* §§ 5-

301, 5-303(b)(1), 5-304(a). Cemeteries that are exempt from registration and permitting requirements under § 5-102(a) but have had a burial in the last five years must also file identifying information with the Office of Cemetery Oversight. *Id.* § 5-405. Cemeteries under § 5-102(a) that have not had a burial in the last five years are not required to file this statement. *Id.*

Regarding records of individual burial sites, little in terms of record-keeping is required under State law inasmuch individual burials are treated as contracts between private parties. In narrow circumstances, information about the interred must be collected and available for review. *See* BR § 5-606(a)(1)-(2) (Cemetery operators that are required to establish a perpetual care trust must “keep detailed records of all sales of burial lots or burial rights in a cemetery.” These records can be viewed by the Director of Cemetery Oversight, the Attorney General or a representative of the Attorney General, or the State’s Attorney for the area where the cemetery does business.); *see also* BR §§ 5-704(c)-(d), 5-710 (a)(1)-(2) (mandating that each cemetery operator “shall keep detailed records of all preneed burial contracts” and make them available to review by the “Director of Cemetery Oversight, Attorney General or an authorized representative of the Attorney General, or the State’s Attorney for the county where the seller does business”); MD. CODE ANN., CRIM. LAW (“CL”) § 10-402(d)(2) (remains that are disinterred from a burial site shall be reinterred, and the location of those remains shall be entered into the local burial sites inventory, or if no local burial sites inventory exists, into a record or inventory deemed appropriate by the State’s Attorney or the Maryland Historical Trust.).

b. CEMETERY MAINTENANCE.

State law distinguishes maintenance of the cemetery grounds from maintenance of the memorials that commemorate the buried. “The owner of a burial lot”—meaning the person to whom the lot is conveyed by the cemetery and the person’s heirs—“[are solely] responsible for

the care of a memorial or monument placed on the burial lot.” BR § 5-503(e)(1). Indeed, a cemetery operator is prohibited from spending perpetual care trust funds, as discussed below, on “care for memorials or monuments.” *Id.* § 5-603(e)(2).

Regarding cemetery ground, cemetery operators—with the exception of those exempt under BR § 5-102(a)—are required to establish a trust fund to ensure perpetual care of cemetery grounds if the operator represents to purchasers that grounds will be cared for indefinitely. BR § 5-603(b)(1) (“Each sole proprietor registered cemerterian, permit holder, or any other person subject to the registration or permit provisions of this title who sells or offers to sell to the public a burial lot or burial right in a cemetery as to which perpetual care is stated or implied shall have a perpetual care trust fund.”); BR § 5-608. Perpetual care means “the maintenance, including the cutting of grass abutting memorials or monuments, administration, supervision, and embellishment of the cemetery and its grounds, roads, and paths, and the repair and renewal of buildings, including columbaria and mausoleums, and the property of the cemetery.” BR § 5-603 (e)(1)(i)-(ii).² The Director of Cemetery Oversight may refer violators of the perpetual trust requirements to the Attorney General for civil enforcement or the State’s Attorney for criminal prosecution. *Id.* § 5-607 (a)(1)–(2). Cemetery operators that are not exempt under § 5-102(a) and who violate the perpetual trust requirements are “guilty of a misdemeanor” and subject to fine or imprisonment. *Id.* § 5-610 (a).

Under State law, counties and municipalities are empowered to maintain and preserve a “burial site” with the permission or at the request of the landowner. RP § 14-122(b). Local governments may carry out maintenance projects by appropriating money, soliciting donations, providing incentives for donations, developing a community service program for people in the

² H.B. 5 of the 2021 Session of the General Assembly, amends this section. This bill, which was passed and signed by the Governor, increases the amount of funds that may be withdrawn from a trust for perpetual care.

court system, or creating a community service program for school children. *Id.* § 14-122(c)(1)–(3). Additionally, a cemetery owned by the State that is located on grounds of a State facility shall be provided perpetual care and marked with a monument commemorating those interred. MD. CODE ANN., STATE FIN. & PROC. § 10-309(c).

c. ENFORCEMENT.

The Director of Cemetery Oversight has substantial authority to receive and review an allegation of a violation of the Act committed by a cemetery operator who is not exempt under BR § 5-102(a). *See* BR §§ 5-311(a), (c)(3). For non-exempt cemeteries, the Director is empowered to receive complaints from any member of the public, review the complaint, attempt to find a settlement agreement between the complainant and permit holder, initiate the Director’s own investigation, and, among other things, hold hearings, examine witnesses, receive evidence, and refer a matter to the Office of the Attorney General. *Id.* §§ 5-204(c)–(d), 5-311(c)(1)–(2); 5-311(d)(1)–(3). After the Director investigates and determines a violation has occurred, the Director has broad enforcement tools, including seeking remedies in court, issuing substantial fines, and revoking the cemetery operator’s permit and registration. *Id.* § 5-310. The Director may also file suit to enforce any provision of the Act, issue a cease-and-desist order, and establish the Director’s own code of ethics for cemetery operators. *Id.* §§ 5-204 (a)(ii), (f)(1), (g).

As noted, however, the Director has no authority to investigate cemetery operators that are exempt under BR § 5-102, nor can the Director refer a complaint about an exempt party to the Attorney General. *Id.* § 5-311(c)(3). While State law provides little in the way of enforcement mechanisms against exempt operators, it is worth noting that the number of complaints the Director receives annually concerning exempt cemeteries might be included in the annual report made by the Director to the General Assembly, which, among other things, must include the number of

complaints received against cemetery owners “by the type of registrant, permit holder, or exemption from the registration and permit requirements of this title.” *Id.* § 5-311 (h)(2)(ii).

d. ACCESS TO CEMETERIES.

The Act includes no provisions respecting access to cemeteries, and what exists elsewhere in State law is limited. Under the Real property Article, a “person in interest” may request of the owner of a burial site to provide reasonable access to the cemetery “for the purpose of restoring, maintain, or viewing the burial site.” MD. CODE ANN., REAL PROP. (“RP”) § 14-121(b). A “person in interest” includes: (i) a person related by blood or marriage to the individual interred; (ii) a domestic partner of the individual interred; (iii) a person with a “cultural affiliation with the person interred in a burial site; or (iv) a person who has “an interest in a burial site that the Office of the State's Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such a board does not exist, the Maryland Historical Trust.” RP § 14-121(a)(4). However, the law imposes no obligation on the cemetery owner to grant the requested access.

Elsewhere in State law, a real estate developer must provide an easement on any burial site located on land that may be affected by a subdivision. MD. CODE ANN., LAND USE § 5-102(d)(1). Such an easement “shall be subject to the subdivision plat for entry to and exit from the burial site by an individual related by blood or marriage or a person in interest.” *Id.* § 5-102(d)(2). Many Maryland counties have similar requirements with respect to property development. *See* discussion *infra* II.

e. MISCELLANEOUS PROVISIONS.

i. Changes to Cemetery Use.

A cemetery may be sold and used for another purpose only by consent of a Maryland court. MD. R PROP SALES RULE 14-401(a); BR § 5-505 (a)-(b). The standard for approving a sale of a cemetery in Baltimore City for another purpose are slightly different, which considers whether the property was abandoned or is harmful to public health. BR § 5-506.

ii. Tax Credits for Cemetery Operators.

A county or municipality in Maryland is empowered to issue a property tax credit to an owner of real estate on an improvement of real property that “substantiates, demarcates, commemorates, or celebrates a burial ground.” MD. CODE ANN., TAX-PROP. § 9-261(a). Baltimore City is the only jurisdiction examined by this survey to adopt a tax credit for cemetery operators. BALT. CITY, MD. CODE 28 § 10-2.

iii. Criminal Law Provisions.

The provisions of the Criminal Law Article dealing with cemeteries focuses solely on the removal of human remains by establishing a mandatory process for the disinterment and reinterment of remains that requirement the involvement of the State’s Attorney. *See* CL § 10-402. Further, these provisions require remains that are “disinterred from a burial site” and are reinterred “be entered into the local burial sites inventory.” *Id.* § 10-402(d)(2).

II. County Law.

Unlike municipalities, which are expressly empowered under State law to “regulate the interment of bodies, and control the location and establishment of cemeteries,” MD. CODE ANN., LOCAL GOV’T (“LG”) § 5-209 (e)(1)-(2), State law does not specifically enable Maryland counties to regulate cemeteries. Perhaps as a consequence of this, there is little in the way of enacted law

in Maryland counties respecting cemeteries. Six Maryland counties—**Allegany, Calvert, Garrett, Harford, Kent, and St. Mary’s**—have no mention of cemeteries or any term related to cemeteries anywhere in their codes. In **Queen Anne’s and Washington Counties** the only law affecting cemeteries are bans on loitering. *See* QUEEN ANNE’S COUNTY, MD. CODE § 13-1, 3; WASHINGTON COUNTY, MD. CODE § 10-201–02. **Cecil County** mentions cemeteries only to set out the process for snow removal from cemeteries when a funeral is held. *See* CECIL COUNTY, MD. CODE § 165-2. Many other counties only have passing mentions to cemeteries.

Caroline and Dorchester Counties have the most robust county legislation on cemeteries. Both jurisdictions have established a Burial Sites Preservation Board. *See* CAROLINE COUNTY, MD. CODE § 89; DORCHESTER COUNTY, MD. CODE § 63. The duties and powers of the Burial Site Preservation Boards in Caroline and Dorchester counties are identical and include: (i) the power and duty to “respond to complaints of alleged violations of County and state burial site protection laws”; (ii) the authority to “respond to information that would lead to the identification of a burial site”; (iii) the duty to “enter onto property to investigate a complaint or to inspect a burial site with the permission of a property owner”; (iv) the duty to “encourage access by persons-in-interest for the purposes of viewing, maintaining or restoring burial sites by utilization of a permission to enter agreement in accordance” with RP § 14-121; (v) the duty to “establish and maintain an inventory of all known burial sites in the County”; and (vi) the authority to “recommend guidelines for the appropriate maintenance of burial sites.” CAROLINE COUNTY, MD. CODE § 89-5; DORCHESTER COUNTY, MD. CODE § 63-5. These Preservation Boards are the only entities examined by this survey that are required to encourage access to burial sites and to create guidelines that strengthen maintenance of burial sites. *Id.* at (iv). The Boards have a duty to create an inventory of all known

burial sites, which they share with the Director of Cemetery Oversight who is also charged with keeping their own inventory.^{3 4 5} B.R. § 5-204 (i)(1)(i)-(iii).

Howard County has created an entity like the Preservation Boards in Caroline and Dorchester Counties, but its board lacks the same breadth of powers and duties. *See* HOWARD COUNTY, MD. CODE § 16.1302–16.1308. Howard County’s Cemetery Preservation Advisory Board is charged with working with the County’s Department of Planning and Zoning to establish an inventory “of all known cemeteries in the county” that will be maintained by the Department of Planning and Zoning and to determine if an area discovered by a developer during construction is a cemetery. HOWARD COUNTY, MD. CODE § 16.1303–16.1304. Unlike in Caroline and Dorchester Counties, Howard County’s Preservation Board has no duty to encourage access or develop guidelines for cemetery maintenance.

Prince George’s County is the only county that mirrors its local laws after the Maryland Office of Cemetery Oversight. On record-keeping, the County’s Director of the Department of the Environment must “maintain a list of all” individuals permitted to operate cemeteries in the county. PRINCE GEORGE’S COUNTY, MD. CODE (“P.G. Code”) 38 § 2-477(h). These are separate permits from those required by the Maryland Office of Cemetery Oversight that a person must obtain before operating a cemetery in Prince George’s County. Exemptions to this permitting requirement are identical to those found in B.R. § 5-102 (a). *Id.* 38 § 2-476. Unlike under State law, however, the County’s Director has no duty to keep an inventory of non-permitted cemeteries. Based on Prince George’s County law alone, these non-permitted sites would only be inventoried

³ Montgomery County Planning Board is also mandated to “maintain, and revise as appropriate, an inventory of burial sites located in the County.” MONTGOMERY COUNTY, MD. CODE § 33A-17.

⁴ Prince George’s County Director of the Department of the Environment must “maintain a list of all” individuals permitted to operate cemeteries in the county, with major exceptions mirroring those in BR § 5-102 (a). PRINCE GEORGE’S COUNTY, MD. CODE 38 § 2-476.

⁵ Carroll County landowners must “record the location” of a cemetery located fully or partly on their land, and report that information to the Office of the Clerk of the Circuit Court for Carroll County. RP § 14-119 (c)(1).

if they exist on the same land as a proposed subdivision. *Id.* 5 § 24-135.02(c) (“The Planning Board, or its designee, shall maintain a registry of cemeteries identified during the subdivision review process.”). Regardless, many sites in Prince George’s County would not be recorded or inventoried at all if the Maryland Office of Cemetery Oversight lapses in July 2023, which is scheduled to occur absent intervening legislation from the General Assembly. *See* BR § 5-1002.

Regarding maintenance, the Prince George’s Code is focused on consumer protection and the preservation of abandoned cemeteries. For instance, a person may only sell a burial plot and represent to the public that the gravesite will receive perpetual care if the seller has provided adequately for perpetual care, *see* P.G. Code 38 § 2-486, and requires developers to make accommodations for cemeteries located within a site that is proposed for development. *Id.* § 24-135.02(a) (a developer whose land includes a cemetery must create “an inventory of existing cemetery elements,” place lot lines in ways that “promote long-term maintenance of the cemetery,” build “[a]n appropriate fence or wall” around the cemetery boundaries, and “shall establish a fund in an amount sufficient to provide income for the perpetual maintenance of the cemetery”). Unlike the Burial Site Preservation Boards in Caroline and Dorchester Counties, the County’s Director has no duty to create guidelines that encourage proper maintenance of memorials.

Prince George’s County’s Director of the Department of the Environment has robust enforcement authority, including the authority to: (i) investigate any permitted cemetery operator; (ii) issue subpoenas in support of their investigations; (iii) sue in the name of the county to enforce local laws and regulations affecting cemetery operation; (iv) issue a civil citation of up to \$5,000; and (v) refer violators to the County Office of Law and the State’s Attorney’s office. P.G. Code 38 § 2-477, 2-485–2-488. Prince George’s County addresses access to cemeteries through a mandate given to developers who build on land encompassing a cemetery. *Id.* 5 § 24-

135.02(a)(5)(d) (requiring developers to create covenants and other agreements that will ensure “adequate access” to a cemetery). Finally, Prince George’s County bars cemeteries from being established along certain thoroughfares but exempts “family burying grounds of reasonable area or graveyards or cemeteries of established churches holding regular services herein” from these restrictions. *Id.* 4 § 14-130(a)–(b).

Regarding **property development requirements**, several counties include within their development codes provisions regarding the identification and preservation of cemeteries. Multiple counties mandate that cemeteries must be identified and preserved when they are discovered by developers or when a burial site exists within the grounds of a proposed development. *See* ANNE ARUNDEL COUNTY, MD. CODE § 17-6-503⁶ ⁷; CHARLES COUNTY, MD. CODE § 278-55(B). Multiple counties mandate access to cemeteries only when a developer finds or plans to build upon land encompassing a cemetery, at which point the developer must create easements that ensure ingress and egress to cemetery sites for persons in interest, as defined in RP § 14-121(a). *See* ANNE ARUNDEL COUNTY, MD. CODE § 17-6-503(b)(3); CHARLES COUNTY, MD. CODE § 278-46(P); FREDERICK COUNTY, MD. CODE § § 1-16-242; HOWARD COUNTY, MD. CODE § 16.1304(a)(1); PRINCE GEORGE’S COUNTY, MD. CODE § 24-135.02(a)(5)(d). Somerset County requires developers to note a cemetery’s “location, including access,” but does not appear to have a statutory requirement addressing access. SOMERSET COUNTY, MD., OFFICE OF COUNTY ENGINEER, [CONSTRUCTION PLAN REVIEW CHECKLIST](#).

⁶ Anne Arundel County published a [resource guide for local historic cemeteries](#). The guide writes that “Anne Arundel County is one of only six local jurisdictions in Maryland with an ordinance (ANNE ARUNDEL COUNTY, MD. CODE § 17-6-503) that protects historic cemeteries. However, this ordinance only applies to developers who plan to build on land encompassing cemeteries. On page 15, the guide notes that the requirements made on developers do not include any mandate for maintaining the cemetery.

⁷ Anne Arundel County has [launched a volunteer program](#) for residents to record the locations of historic cemeteries.

III. Municipal Law

As noted, Maryland municipalities are empowered by State law to regulate cemeteries. LG § 5-209(e)(1–2). Based on a survey of the five largest municipalities in the state (excluding Baltimore City), these jurisdictions have largely declined to exercise that power. Bowie has no ordinances regulating cemeteries, Frederick only mandates that an area requesting to be annexed into the city must identify “cemeteries, markers, and structures listed on the national register or has the potential to be listed on the national register,” CITY OF FREDERICK, MD CODE § 322 (c)(5), and Hagerstown bars vandalism of tombstones, HAGERSTOWN, MD CODE § 173-10.