

FILED FEB 14 2006

SENATE FILE 2208
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SF 2008)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to access to certain burial sites located on
2 private property.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2208

1 Section 1. Section 523I.316, subsection 3, Code Supplement
2 2005, is amended to read as follows:

3 3. DUTY TO PRESERVE AND PROTECT.

4 a. A governmental subdivision having a cemetery, or a
5 burial site that is not located within a dedicated cemetery,
6 within its jurisdiction, for which preservation is not
7 otherwise provided, shall preserve and protect the cemetery or
8 burial site as necessary to restore or maintain its physical
9 integrity as a cemetery or burial site. The governmental
10 subdivision may enter into an agreement to delegate the
11 responsibility for the preservation and protection of the
12 cemetery or burial site to a public or private organization
13 interested in historical preservation.

14 b. If a public or private organization enters into an
15 agreement with a governmental subdivision pursuant to this
16 subsection to preserve and protect a cemetery or burial site
17 that is located on property owned by another person within the
18 jurisdiction of the governmental subdivision, the governmental
19 subdivision shall notify the property owner of the location of
20 the cemetery or burial site and that the property owner is
21 required to permit members of the organization reasonable
22 ingress and egress for the purposes of preserving and
23 protecting the cemetery or burial site.

24 c. For the purposes of this subsection, reasonable ingress
25 and egress to a cemetery or burial site shall include the
26 following:

27 (1) A member of a public or private organization that has
28 entered into an agreement with the governmental subdivision
29 who desires to visit such a cemetery or burial site shall give
30 the property owner at least ten days' notice of the intended
31 visit.

32 (2) If the property owner cannot provide reasonable access
33 to the cemetery or burial site on the desired date, the
34 property owner shall provide reasonable alternative dates when
35 the property owner can provide access to the member.

1 d. A governmental subdivision that enters into an
2 agreement with a public or private organization pursuant to
3 this subsection is liable for any personal injury or property
4 damage that occurs in connection with the cemetery or burial
5 site or access to the cemetery or burial site.

6 EXPLANATION

7 This bill provides that if a public or private organization
8 enters into an agreement with a governmental subdivision to
9 preserve and protect a cemetery or burial site that is located
10 on the property of another person within the jurisdiction of
11 the governmental subdivision, the governmental subdivision
12 shall notify the property owner of the location of the
13 cemetery or burial site and that the property owner is
14 required to permit members of the organization reasonable
15 ingress and egress for the purposes of preserving and
16 protecting the cemetery or burial site. The bill defines what
17 constitutes reasonable ingress and egress for such purposes
18 and provides that a governmental subdivision that enters into
19 an agreement with a public or private organization for
20 preservation of a cemetery or burial site is liable for any
21 personal injury or property damage that occurs in connection
22 with the cemetery or burial site or access to the cemetery or
23 burial site.

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SENATE FILE 2208

S-5054

1 Amend Senate File 2208 as follows:

2 1. Page 1, by inserting after line 23, the
3 following:

4 "c. Subject to chapter 670, a governmental
5 subdivision that enters into an agreement with a
6 public or private organization pursuant to this
7 subsection is liable for any personal injury or
8 property damage that occurs in connection with the
9 preservation or protection of the cemetery or burial
10 site or access to the cemetery or burial site."

11 2. By renumbering as necessary.

By KEITH A. KREIMAN

S-5054 FILED MARCH 13, 2006

ADOPTED

1 Section 1. Section 523I.316, subsection 3, Code Supplement
2 2005, is amended to read as follows:

3 3. DUTY TO PRESERVE AND PROTECT.

4 a. A governmental subdivision having a cemetery, or a
5 burial site that is not located within a dedicated cemetery,
6 within its jurisdiction, for which preservation is not
7 otherwise provided, shall preserve and protect the cemetery or
8 burial site as necessary to restore or maintain its physical
9 integrity as a cemetery or burial site. The governmental
10 subdivision may enter into an agreement to delegate the
11 responsibility for the preservation and protection of the
12 cemetery or burial site to a public or private organization
13 interested in historical preservation.

14 b. If a public or private organization enters into an
15 agreement with a governmental subdivision pursuant to this
16 subsection to preserve and protect a cemetery or burial site
17 that is located on property owned by another person within the
18 jurisdiction of the governmental subdivision, the governmental
19 subdivision shall notify the property owner of the location of
20 the cemetery or burial site and that the property owner is
21 required to permit members of the organization reasonable
22 ingress and egress for the purposes of preserving and
23 protecting the cemetery or burial site.

24 c. Subject to chapter 670, a governmental subdivision that
25 enters into an agreement with a public or private organization
26 pursuant to this subsection is liable for any personal injury
27 or property damage that occurs in connection with the
28 preservation or protection of the cemetery or burial site or
29 access to the cemetery or burial site.

30 d. For the purposes of this subsection, reasonable ingress
31 and egress to a cemetery or burial site shall include the
32 following:

33 (1) A member of a public or private organization that has
34 entered into an agreement with the governmental subdivision
35 who desires to visit such a cemetery or burial site shall give

1 the property owner at least ten days' notice of the intended
2 visit.

3 (2) If the property owner cannot provide reasonable access
4 to the cemetery or burial site on the desired date, the
5 property owner shall provide reasonable alternative dates when
6 the property owner can provide access to the member.

7 e. A governmental subdivision that enters into an
8 agreement with a public or private organization pursuant to
9 this subsection is liable for any personal injury or property
10 damage that occurs in connection with the cemetery or burial
11 site or access to the cemetery or burial site.

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