

## CONDITIONS to watch for:

- If a traditional **access route** to your cemetery is damaged or destroyed, landholders are required to designate a reasonable alternative. You may need to seek help from local elected officials, a judge, or the attorney general's office to make sure this happens. Also, please report any instances of blocked, dangerous or denied access to the Cemetery Preservation Group.
- Make sure **your cemeteries are clearly marked** and regularly cleaned and weeded. Surface coal mining operations are mandated to stay 100 feet away from a registered cemetery, but this is often not far enough to prevent some damage to the cemetery. **Watch your cemeteries closely!** Report any damage and seek immediate help if needed.
- **Oil and gas drilling may be an increasing threat to cemeteries.** At present, there is no legal mandate for a buffer zone between oil and gas drilling and cemeteries. If you know of damage or desecration of cemeteries due to gas industry operations, please contact us.
- Landholders unaware of cemetery protection laws may continue to present problems. **Encourage your local elected officials to notify landholders about cemeteries and relevant laws.**

## The importance of REGISTERING

- Recording your cemetery with the State Historic Preservation Office (SHPO) to make its location known to those planning industrial operations, highways, or building projects in the area of the cemetery.
- Protect your cemetery by maintaining it. Put up a sign; mark the boundaries with a fence or stones. Make it as obvious as possible that this is a cemetery.
- Find forms and instructions to record your cemetery on SHPO's website: [www.wvculture.org/shpo/cemeteries.html](http://www.wvculture.org/shpo/cemeteries.html).
- Make the location of your cemetery known to your local sheriff or county commissioner. Encourage them to notify the landholder of descendants' rights to visit.

## QUESTIONS ?

If you have questions, need hard copies of the forms mentioned in this brochure, or would like more information about coordinated efforts to protect cemeteries, please contact:

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Huntington, WV 25773  
[www.ohvec.org](http://www.ohvec.org)

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# Cemetery Preservation Group

## *Safeguarding your family cemeteries*

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



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

If so, you can ask for access in order to **visit gravesites, to do genealogical research, and to clean or maintain the cemetery**. Those who are authorized to visit the cemetery include: a family member, close friend, or descendant of a deceased person; a cemetery-plot owner; a person who has the written permission of a descendant to enter the property solely for the purpose of installing monuments or preparing the cemetery plot for burying a deceased person; or a person engaged in genealogy research.

### *Here's how to ask for access:*

- Write the landholder and ask for access to the cemetery on a specific date. Keep a copy of your letter.
- West Virginia law requires a response within ten days, or the landholder— if not able to allow your visit within the ten-day period—must contact you within five days to suggest another date when you can visit.
- If your usual access road or path is destroyed or blocked, the landholder is supposed to select another reasonable route for you.
- If the landholder will not grant you access, you can file a complaint with the attorney general's office. The complaint form can be found at: [www.wvago.gov/pdf/general%20complaint.pdf](http://www.wvago.gov/pdf/general%20complaint.pdf).
- You can also seek an injunction—without posting a bond— in circuit court, possibly resulting in immediate access to the cemetery.



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

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

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

## Damaging a cemetery **IS A CRIME!**

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

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

Any actions that would “outrage the sensibilities of the average person” might qualify as desecration that can lead to legal penalties.

If any landholder wants to move items from your cemetery or remove graves from the site:

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

*“We have much more work to do. Our job isn't over yet, and I'm in it for the long haul. We've won a small victory [in the 2010 legislation], but the fight still rages on. May this bill be the first of many steps to protecting our loved ones passed and allow them to rest in peace.”* - **Dustin White, CPG member with family cemeteries in Boone County, WV**