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Date: (Filing No. S- )

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
SENATE  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 374, L.D. 1071, Bill, “An Act To Increase the Penalties for Vandalizing a Cemetery”

Amend the bill by striking out the title and substituting the following:

**'An Act To Address Vandalism of a Cemetery'**

Amend the bill by inserting after the enacting clause and before section 1 the following:

**'Sec. 1. 13 MRSA §1101, sub-§3** is enacted to read:

**3. Cemeteries.** A municipality shall repair and restore tombs, monuments, gravestones, markers and any fences, railings, curbs or other enclosures that have been damaged and for which repair and restoration have not been provided by a person or organization.'

Amend the bill in section 2 in subsection 1 in paragraph A in the last line (page 1, line 16 in L.D.) by striking out the following: "C crime;" and inserting the following: "D crime; or'

Amend the bill in section 2 in subsection 1 in paragraph B in the last line (page 1, line 24 in L.D.) by striking out the following: "C crime; or" and inserting the following: "D crime.'

Amend the bill in section 2 in subsection 1 by striking out all of paragraph C (page 1, lines 25 to 32 in L.D.)

Amend the bill in section 4 in subsection 4 by striking out all of the first paragraph (page 1, lines 36 to 39 in L.D.) and inserting the following:

**4. Notwithstanding section 1323, subsections 1 and 2 and section 1325, subsections 1 and 2, the court shall order restitution under chapter 54 if a violation of subsection 1 results in any damages or pecuniary loss. If possible, damages must be calculated by an appropriate professional conservator. The following may be a claimant:**

**COMMITTEE AMENDMENT**

1 Amend the bill in section 5 in §507-B in the first line in the headnote (page 2, line 17  
2 in L.D.) by inserting after the following: "**gravestones**" the following: '**and memorials**'

3 Amend the bill in section 5 in §507-B in subsection 4 by striking out all of the first  
4 paragraph (page 2, lines 39 and 40 and page 3, lines 1 and 2 in L.D.) and inserting the  
5 following:

6 '4. Notwithstanding section 1323, subsections 1 and 2 and section 1325, subsections  
7 1 and 2, the court shall order restitution under chapter 54 if a violation of subsection 1  
8 results in any damages or pecuniary loss. If possible, damages must be calculated by an  
9 appropriate professional conservator. The following may be a claimant under section  
10 1324.'

11 Amend the bill by striking out all of section 8.

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
13 section number to read consecutively.

## 14 SUMMARY

15 This amendment is the minority report of the committee. The amendment retains the  
16 provisions of the bill that make restitution mandatory in criminal cases involving  
17 interference with a cemetery or burial ground and illegal possession of gravestones. The  
18 amendment strikes from the bill the provision that removes from the consideration of the  
19 court the inability to pay of a person who commits these crimes. The amendment strikes  
20 from the bill the strict liability crime of removal of a flower, flag, flag holder or memorial  
21 token from a grave, tomb, monument or burial lot and the crime of owning or controlling  
22 an animal that destroys, mutilates, defaces, injures or removes any tomb, monument,  
23 gravestone, marker, metal plaque, flag, flag holder or veteran's grave marker or other  
24 structure or thing placed or designed as a memorial or to protect a memorial for the dead,  
25 or any portion or fragment of any such memorial, or any fence, railing, curb or other  
26 enclosure for the burial of the dead. The amendment maintains the designation in current  
27 law of interference with a cemetery or burial ground as a Class D crime. The amendment  
28 requires municipalities to repair and restore tombs, monuments, gravestones, markers and  
29 any fences, railings, curbs or other enclosures that have been damaged and for which  
30 repair and restoration have not been provided by a person or organization.