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Senate Bill 157 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Jeremy Moss

Committee: Regulatory Affairs

Date Completed: 7-29-25

## **RATIONALE**

According to testimony before the Senate Committee on Regulatory Affairs, Michigan residents who inter their pets on a property that acts as a pet cemetery lack consumer protection, as the State does not regulate pet cemeteries. Reportedly, residents expect a cemetery to maintain their pets' grave plots in perpetuity and may lack recourse if the owner of a property that acts as a pet cemetery sells or modifies that land. In 2018, after the operator of a pet cemetery in Howell defaulted on the operator's lease, the property's owners closed the pet cemetery and notified the owners of the approximately 74,000 animals buried there that pet remains were to be removed.<sup>1</sup> Testimony indicates this process was traumatic for residents, who thought they had lain their pets to rest but were forced to exhume and rebury them. Accordingly, it has been suggested that pet cemeteries be regulated as human cemeteries are regulated.

## **CONTENT**

**The bill would enact the "Pet Cemetery Regulation Act" to do the following:**

- **Require the owner of any land used or proposed to be used as a pet cemetery to file a dedication in the office of the register of deeds of that county.**
- **Provide that, if pet cemetery property had an encumbrance on it, the owner of the pet cemetery would have to adopt measures to pay the encumbrance.**
- **Prohibit land registered as a pet cemetery from being used for another purpose.**
- **Require a person that owned a parcel of land other than a pet cemetery or landfill that was used for the communal burial of pets to file a declaration on the deed to the land to that effect.**
- **Require a person wishing to establish a pet cemetery to establish and deposit \$10,000 into an endowed care fund for the care of the cemetery.**
- **Require a person wishing to establish a pet cemetery to file a description of the land with the local health department and gain approval from the department.**
- **Require an owner of a pet cemetery to charge purchasers of individual burial rights an endowed care fee, which would have to be deposited into the cemetery's endowed care fund, along with at least 15% of the proceeds from the sale of individual burial rights.**
- **Allow an operator of a pet cemetery to include in its charges a maintenance fee.**
- **Allow an operator of a pet cemetery to reclaim land and dispose of a pet's remains if charged fees were not paid within 180 days of charge and the pet owner was served notice.**
- **Establish recording requirements for pet cemeteries and pet crematoriums.**
- **Establish the conditions under which a court could remove the dedication of land as a pet cemetery.**
- **Prescribe a misdemeanor penalty for a violation of the bill.**

<sup>1</sup> Martindale, Mike, "Animal owners sue over closure of Howell pet cemetery", *The Detroit News*, January 8, 2019.

## Definitions

"Pet cemetery" would mean any land, place, structure, facility, or building provided by any person for a fee, regardless of profit, to any person for use, or reservation for use, for the individual interment belowground or entombment aboveground of pet remains. The term would not include land used exclusively for landfilling or the communal burial of pets but would include the portion of land in a pet cemetery that was used for the communal burial of pets. "Pet crematorium" would mean any land, structure, or facility provided by any person for a fee, regardless of profit, to veterinarians or members of the general public for individual or group cremation.

"Person" would mean an individual or a partnership, corporation, limited liability company, association, governmental entity, or other legal entity. "Pet" would mean an animal that has been tamed or adapted to live in close association with human beings. The term would include a dog, cat, bird, rabbit, hamster, fish, reptile, horse, and exotic animal. It would not include a large carnivore.<sup>2</sup> "Pet owner" would mean the person that is listed in the veterinary records or pet cemetery or crematorium records as the owner of a pet. If a pet owner were a minor, a parent or legal guardian of the minor would be considered the owner of the pet for the purpose of the bill.

"Local health department" would mean that term as defined in Section 1105 of the Public Health Code:

- A county health department of a single county and its board of health, if any.
- A district health department and its board of health.
- A city health department and its board of health, if any.
- Any other local agency approved by the Department of Health and Human Services.

## Cemetery Dedication

The bill would require the owner of any land or a portion of land that was clear of any encumbrance (a claim or restriction on a property made by a person other than the property owner, such as a mortgage, easement, or property tax lien) and was being used, or proposed to be used, as a pet cemetery to file a dedication in the office of the register of deeds of that county. The owner would have to execute the dedication in the same manner and with the same effect as a conveyance of an interest in land. The register of deeds would have to record the dedication in the record of deeds.

If pet cemetery property had an encumbrance on it by a financial institution or private individual whose interest was first on the deed, the owner of the record of the pet cemetery would have to adopt proper and legal estate planning and trust arrangements, including a mortgage or life insurance policy, to pay in full the encumbrance on the property if the owner ceased to exist, at which time the personal representative of the estate would have to file with the register of deeds a dedication like that previously described.

An owner of a pet cemetery that was organized or developed and operating on the bill's effective date would be exempt from complying with these dedication requirements for two years after the bill's effective date.

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<sup>2</sup> The term "large carnivore" would include certain cats of the Felidae family, whether wild or captive bred, including a hybrid cross with such a cat (i.e., a lion, leopard, jaguar, tiger, cougar, panther, or cheetah) or a bear of a species that is native or nonnative to the State, whether wild or captive bred.

The bill would prohibit a person from establishing a pet cemetery in the State until a description of the premises and a plot of land showing the pet cemetery's division was filed in duplicate with the local health department. A local health department could not approve a proposed pet cemetery if it determined that the establishment or operation of the pet cemetery would be injurious to the public health. The local health department would have to determine whether it was safe and healthful for a pet cemetery to be established in the proposed location and, if the local health department approved the location and the plot of the premises, the local health department endorsed its approval on both plots. When the establishment of a cemetery was approved, one plot of land would have to be returned to the person and the other would have to be retained and preserved by the local health department. This requirement would not apply to a pet cemetery that was in operation on the effective date of the bill.

The bill would prohibit land registered as a pet cemetery to be used for a purpose other than as a pet cemetery. The bill also would prohibit a person from operating a pet cemetery in the State that was less than three acres in size, unless the pet cemetery was established before the bill's effective date.

Additionally, the bill would require a person that owned a parcel of land other than a pet cemetery or landfill that was used for the communal burial of pets to file a declaration on the deed to the land that stated that the land had been used as a communal pet burial ground. The person also would have to file a copy of the declaration with the Director of the Department of Natural Resources (DNR).

#### Fees

The bill would require a person wishing to establish a pet cemetery to deposit \$10,000 in an endowed care fund. The fund would be further funded, beginning on the bill's effective date, through 1) endowed care fees charged to purchasers of individual burial rights and 2) a portion, at least 15%, of the proceeds from the sale of individual burial rights. All fees collected for endowed care would have to be deposited into a fund within 30 days after payment. If the pet cemetery generated an additional \$10,000 in revenue from these sources, the owner of the original sum deposited into the account could withdraw the owner's funds.

An owner of a pet cemetery that was organized or developed and operating on the bill's effective date would be exempt from complying with the requirements for an endowed care fund for one year after the bill's effective date.

The income from an endowed care fund would have to be used for the care, maintenance, and supervision of the pet cemetery and could be used to satisfy property taxes and fees for accounting and annual reports. An annual report of the endowed care fund would have to be available on written request by a pet owner with burial rights in the pet cemetery.

A pet cemetery operator could include in its customary charges a maintenance fee for the immediate maintenance of a burial site; however, the fee could not exceed the fee charged for endowed care. Payment for the maintenance fee would have to be deposited in the general pet cemetery account and used for pet cemetery maintenance only.

If an endowed care fee or maintenance fee were unpaid for 180 days after interment or billing, an operator of the pet cemetery, after serving notice on the pet owner by registered mail at the last known address of the pet owner, could reclaim the land for pet cemetery use and dispose of the pet's remains in a manner that an operator of a pet cemetery chose and that complied with applicable State law.

After the bill's effective, an operator of a pet cemetery who offered to make arrangements in advance of interment for an individual burial would have to place 130% of the costs of tangible goods, including caskets and grave markers, in a preneed fund that was separate from the general fund of the pet cemetery and that was held until the time of the pet's interment. If a preneed burial right purchase had been made but not used and the pet cemetery owner refunded the purchase price plus interest, the interest would have to be computed in a manner and at a rate agreed on between the operator of the pet cemetery and the owner of the burial right; however, the interest rate could not exceed the average current interest rate for savings accounts.

A person that violated the proposed Act would be guilty of a misdemeanor punishable by imprisonment for at least 90 days, a fine of at least \$2,000, or both.

#### Cemetery Operation

The bill would require an operator of a pet cemetery to disclose the disposal options available to a pet owner, whether communal burial, group cremation, landfill, rendering, or individual burial or cremation. An operator of a pet cemetery would have to make this disclosure on a form that would have to be signed by the pet owner. If a pet owner chose individual burial or cremation for the pet owner's pet, a copy of the disposal form would have to be provided to the operator of the pet cemetery and kept with the pet's permanent records. If a pet owner were not available to execute the disposal form, a veterinarian in charge could execute the form on the written or verbal request of the pet owner. A disposal form would not be required if a pet owner could not be found.

More than one pet could be interred in a grave and in a nonbiodegradable container if the pet owner consented to the interment in writing.

The bill would require a person operating a pet cemetery to keep accurate and complete records of all burial agreements, preneed arrangements, and endowed care deposits. Copies of all records would have to be kept in duplicate. One copy would have to be kept in a manner that protected it from destruction by any unforeseen event.

Additionally, the bill would require a pet owner who owned burial rights in a pet cemetery to keep the operator of the pet cemetery fully informed of the pet owner's current mailing address. If 10 years were to pass after the purchase of preneed burial arrangements without use or notification of the pet owner's current mailing address, the property would revert to the owner of the pet cemetery for resale if the operator of the pet cemetery had made the operator's best effort to contact the pet owner. All money held on deposit for that pet owner for tangible items could be deposited in the general fund of the pet cemetery. If the pet owner contacted the operator after the 10-year period has passed, the operator of the pet cemetery would have to reassign an interment right of equal value in as close proximity to the original location as possible and at no additional cost to the pet owner.

The bill would not exempt a person establishing a pet cemetery from obtaining any use permits from the local unit of government that had jurisdiction over the land in which the pet cemetery was located or the proposed pet cemetery was to be located.

#### Crematorium Operation

The bill would require a person operating a pet *crematorium* to keep accurate and complete records of each pet that the crematorium cremated for at least one year after the cremation. The records would have to include all the following:

- The pet owner's name and mailing address.
- The pet's name, breed, color, and weight.
- If the pet were microchipped and the person had a device that could obtain information about the pet that was stored in the microchip, all that information.
- The date or dates that the pet crematorium acquired and delivered the pet's remains.

A person operating a pet crematorium would have to have any necessary permits in place from the Air Quality Division of the Department of Environment, Great Lakes, and Energy and otherwise comply with applicable State and Federal laws.

#### Cemetery Dedication; Removal

A court would have to remove the dedication of land as a pet cemetery if one or more of the following conditions were shown to be fulfilled to the court's satisfaction:

- An interment had not been made in the dedicated land.
- All pet remains had been removed from the land in question.
- The owner of the pet cemetery or the owner's heirs or assignees received, from those persons that owned burial rights in the pet cemetery, written, notarized authorization.

A person granting authorization to have a pet that was already interred in the pet cemetery removed and reinterred elsewhere would have to state that fact on the authorization, and the pet cemetery owner, at the pet cemetery owner's expense, would have to remove the pet's remains, have the remains reinterred elsewhere, and provide the person with proof of the removal and reinterment. If the owner of record of burial rights in a pet cemetery could not be found, the owner of the pet cemetery would have to publish a notice in a newspaper of general circulation for a period of two weeks that the owner intended to remove and reinter the remains.

To satisfy a court for the removal of a restriction, if no current mailing address or location for an owner of record to burial rights in a pet cemetery could be found, the pet cemetery owner would have to publish a notice in a newspaper of general circulation for a period of two weeks that the pet cemetery owner intended to remove the remains and reinter them in another pet cemetery in the State at the pet cemetery owner's expense.

On the reinterment of all pets from a pet cemetery before the removal of a restriction, the owner of the pet cemetery would have to transfer all necessary endowed care money from the established endowed care fund of the pet cemetery to the established endowed care fund or funds of the pet cemetery or cemeteries accepting the pets for burial so that the endowed care would continue for those pets' graves. Any remaining money in the endowed care fund would have to be used at the pet cemetery owner's discretion to place the pet cemetery back to marketable condition following the removal of all gravesites.

#### **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

The bill is similar to Senate Bill 1046 of the 2023-2024 Legislative Session, Senate Bill 549 of the 2021-2022 Legislative Session, and Senate Bill 823 of the 2019-2020 Legislative Session.

#### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill would protect Michiganders from fraud. According to testimony before the Senate Committee on Regulatory Affairs, individuals may take advantage of grieving pet owners by

offering them funeral and burial services with no intention of keeping their promises. For example, residents who had interred or planned to inter their pets at Howell's Heavenly Acres Pet Cemetery testified that, though they had paid for grave plots, grave markers, maintenance, and more, their pets' grave sites were unrecognizable and in poor condition. Additionally, as the operator of the pet cemetery was not the owner of the property but a tenant, residents alleged that the promise to maintain the cemetery in perpetuity was made in bad faith.<sup>3</sup> Current law allows individuals to take advantage of grieving customers and an unregulated market to make a profit with little accountability. The State should protect its residents and their pets from predatory practices by regulating the creation, operation, and closure of pet cemeteries.

Legislative Analyst: Nathan Leaman

### **FISCAL IMPACT**

The bill would have an indeterminate, though likely insignificant fiscal impact. The bill would increase the administrative costs for county registers of deeds and the DNR. A person that violated the bill would face up to 90 days in jail, a fine of at least \$2,000, or both.

New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails; however, it is unknown how many people would be prosecuted under the provisions of the bill. Local jail costs vary by jurisdiction and thus costs for local governments would vary. Local revenue to local libraries could increase under the bill as any additional revenue from imposed fines would go to local libraries.

The bill would have no fiscal impact on State or local courts.

Fiscal Analyst: Bobby Canell  
Joe Carrasco, Jr.  
Michael Siracuse

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<sup>3</sup> Martindale, Mike, "Animal owners sue over closure of Howell pet cemetery", *The Detroit News*, January 8, 2019.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.