



2023 South Dakota Legislature

Senate Bill 144

Introduced by: **Senator Schoenfish**

1 **An Act to provide access to abandoned cemeteries to descendants of the decedents**
 2 **interred therein.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 7-26 be amended with a NEW SECTION:**

5 A descendant of a decedent for whom there is a public record of being interred in
 6 an abandoned cemetery that is surrounded by privately owned land and lacks an available
 7 means of ingress or egress who wishes to access the cemetery has the right, during
 8 reasonable hours, to reasonable ingress or egress through the property surrounding the
 9 cemetery for the purpose of visiting or maintaining the cemetery.

10 The descendant of the decedent interred in the abandoned cemetery must first
 11 obtain the consent of the landowner prior to each visit before entering the abandoned
 12 cemetery, but the landowner may not withhold permission without reasonable cause. The
 13 owner of the land surrounding the cemetery shall designate the route for reasonable
 14 access. The sheriff of the county in which the abandoned cemetery is located shall enforce
 15 the provisions of this section.

16 **Section 2. That § 7-26-6 be AMENDED:**

17 **7-26-6.** For the purposes of § 7-26-7 and section 1 of this Act, the term,
 18 "~~abandoned cemetery~~" abandoned cemetery, means a cemetery, in which no burial of a
 19 human body has taken place for five years and which has not been, for a period of five or
 20 more years, maintained by any person, church, religious or benevolent society, or any
 21 civic organization.