

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 105 (Senator Ellis)
 Judicial Proceedings

Burial Sites of Enslaved Persons - Protection and Access (Emancipation for the Maryland Deceased Enslaved Act)

This bill establishes the Office of Burial Sites of the Maryland Enslaved (OBSME) to identify, study, and preserve the burial sites of enslaved persons on former plantations within the State. The bill also (1) requires an owner of land that encompasses any part of a former plantation to take reasonable steps to identify whether there are any burial sites of enslaved persons on the land and allow specified persons in interest to visit any sites and (2) prohibits the construction of any object on the burial sites. Beginning in fiscal 2026, the Governor must include in the annual budget bill an appropriation of \$2.5 million for OBSME.

Fiscal Summary

State Effect: General fund expenditures increase by \$158,900 in FY 2025 for staff. Future year expenditures reflect the mandated appropriation. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2026.**

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	158,900	2,500,000	2,500,000	2,500,000	2,500,000
Net Effect	(\$158,900)	(\$2,500,000)	(\$2,500,000)	(\$2,500,000)	(\$2,500,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Burial Site Access

Under current law, any “person in interest” may *request* the owner of a burial site (or of the land encompassing a burial site) that has been documented or recognized as a burial site by the public or any person in interest to grant reasonable access to the burial site for the purpose of restoring, maintaining, or viewing the burial site. Statute includes related provisions, including that an owner who allows persons to enter or go on the land for the aforementioned purposes is not liable for damages in a civil action to a person who enters on the land, as specified.

The bill *requires* an owner of land that encompasses any part of a former “plantation” to (1) take reasonable steps, in consultation with the Maryland Historical Trust (MHT) and OBSME, to identify whether any burial sites of enslaved persons exist on the land and (2) allow visitation to any burial site where any enslaved persons are interred by a person in interest who makes a request as authorized under the bill. The owner of property may limit visitation to one weekend day per month and to the observance of Dr. Martin Luther King, Jr.’s birthday and the Juneteenth National Independence Day. A “plantation” means a large agricultural estate or farm as designated by MHT where enslaved persons were forced to work for the profit of the owner of the property.

Under current law, a “person in interest” is a person who (1) is related by blood or marriage to the person interred in a burial site; (2) is a domestic partner of a person interred in a burial site; (3) has a cultural affiliation with the person interred in a burial site; or (4) has an interest in a burial site that the Office of the State’s Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such a board does not exist, MHT.

The bill expands the definition of person in interest to include a person who has learned through oral tradition of the person’s relation to an enslaved person interred in a burial site.

Office of Burial Sites of the Maryland Enslaved

The purpose of OBSME – which must be headquartered in the Banneker-Douglass Museum in Annapolis – is to identify, study, and preserve the burial sites of enslaved persons on former plantations within the State. OBSME must (1) study the history of interment of enslaved persons within the State; (2) provide training, education, and outreach services for the benefit of the public; and (3) make policy recommendations about preserving the burial sites of enslaved persons located within the State. The Governor must

appoint an Executive Director, with the advice and consent of the Senate; the Executive Director must hire an executive associate and any staff necessary to fulfill the purpose of OBSME.

By January 1, 2026, and annually thereafter, OBSME must report to the Governor and the General Assembly on the activities of the office.

Under current law (and unchanged by the bill), the Maryland Commission on African American History and Culture (MCAAHC) is an independent unit in the Executive Branch of State government. Among other responsibilities, the commission (1) initiates, directs, and coordinates projects that further the understanding of African American history and culture and (2) operates the Banneker-Douglass Museum to house and display photographs, objects, oral history tapes, artifacts, and other materials of African American historic and cultural significance.

State Fiscal Effect: General fund expenditures increase by \$158,937 in fiscal 2025, which reflects estimated expenses associated with the employment of the Executive Director (assumed to commence October 1, 2024) and an executive assistant (assumed to commence December 1, 2024). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$144,107
Operating Expenses	<u>14,830</u>
FY 2025 State Expenditures	\$158,937

For purposes of this estimate, it is assumed that the two positions accounted for above are sufficient to begin implementation of the bill until the mandated funding is made available in fiscal 2026 (although assumed above, funding in fiscal 2025 is discretionary). Beginning in fiscal 2026, the bill requires a mandated appropriation of \$2.5 million for OBSME. Even though a precise estimate of expenditures is not feasible until OBSME commences operations, the Department of Legislative Services advises that this mandated funding appears more than sufficient to hire additional staff as needed and otherwise support the purposes of the bill. For context, the fiscal 2025 budget as introduced includes \$1.6 million for MCAAHC, which aligns with a mandated annual appropriation of \$1.6 million. Although not specifically accounted for in this analysis, any funds not expended (or encumbered) for purposes of the bill revert to the general fund.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Governor's Office; Judiciary (Administrative Office of the Courts); Department of Budget and Management; State Department of Assessments and Taxation; Department of Legislative Services

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