

Georgia Indian Burial Laws

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Citation: Protection of American Indian Human Remains and Burial Objects (Georgia Code Ann. Â§44-12-260, et seq.); Historic Preservation Act (Official Code of Georgia Ann. Â§12-3-53 through Â§12-3-82; Â§31-21-6); Dead Bodies (Georgia Code Ann. Â§31-21-5-6, 45); Abandoned Cemeteries and Burial Grounds (Georgia Code Ann. Â§36-72-16); Research References (Georgia Code Ann. Â§12-3-52-54).

Date Enacted: 1969, amended 1981, 1985, 1992

Summary: Georgia's Protection of American Indian Human Remains and Burial Objects protects unmarked human burials. The Department of Historic Resources, through the office of the State Archaeologist, issues excavation permits for state lands. In general, the state discourages removal of sacred or cultural objects from Native American burials. In cases where a burial must be excavated, the excavation research plan or design must include a plan for identify and notifying lineal descendants, for permission to perform skeletal analysis, curation and disposition. If human remains are encountered accidentally, the action ceases and the appropriate law enforcement agency is notified. The law enforcement agent takes responsibility for alerting the coroner, who in turn, determines if the remains are forensic in nature. If the remains are not forensic, then the coroner or medical examiner notifies the local governing authority and the Division of Natural Resources, the latter has responsibility for contacting the Council of American Indian Concerns. The Division of Natural Resources, in consultation with the Council, decides if the remains should be excavated, and if so, obtains written permission if the remains are on private lands. It is unlawful for any person not operating under the provisions of Â§106 of the National Historic Preservation Act to willingly or knowingly disturb any archaeological, aboriginal, prehistoric or historic site. It is also unlawful to buy, sell, trade, import, or export American Indian burial, sacred, or cultural objects. Any person who has knowledge of, or has reason to believe that interred human remains have been disturbed, destroyed, defaced, removed, or altered without a permit must immediately notify the local law enforcement agency.

Museums in possession of human remains or burial objects must return such objects to the relevant tribe if a request is made. Failure to comply with this law is subject to a civil penalty imposed by the Secretary of State, which in no event shall exceed \$5,000. It is a felony to publicly display dead human bodies of American Indians or American Indian human remains except in connection with funeral or burial services. Educational exhibits or displays are only permissible with the express written permission of the lineal descendants of the deceased or where there is no lineal descendent by the Council on American Indian Concerns.

Jurisdiction: All state and private lands including submerged lands.

Statute of Limitation: Not specified.

Areas Covered Under Act: All human skeletal remains and prehistoric and historic sites.

Ownership: State assumes ownership.

Review/Consultation Committee: The Council on American Indian Concerns must be consulted.

Liability: Anyone who knowingly disturbs, defaces, removes or exposes human remains, without a permit is liable.

Penalties: Displaying human remains without the express written consent of may result in a penalty

not to exceed \$5,000.

Exemptions: Educational exhibits or displays are allowed with the express written permission of the deceased lineal descendants or the Council on American Indian Concerns, if not.

Permitting: Not specified for Native American burials but general archaeological permits issued through State Archaeologist.