

Massachusetts Indian Burial Laws

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MASSACHUSETTS

Citation: Discovery of Unmarked Skeletal Remains (Mass. General Laws Ann. Ch. 38, Â§6B); Commission on Indian Affairs (Mass. Gen. Laws Ann. Ch.7, Â§38A); Violation of Sepulchre (Mass. Gen. Laws Ann. Ch. 272, Â§71); Injuring or Removing Tombs, Graves, Memorials, etc. (Mass. Gen. Laws Ann. Ch. 272, Â§73), Preservation of Ancient Burial Places (Mass. Gen. Laws Ann. Ch. 114, Â§17), Reports to State Archaeologist [Cessation of Activities at Unmarked Burial Grounds] (Mass. Gen. Laws Ann. Ch. 9, Â§27C).

Date Enacted: 1983, 1989

Summary: Any person in the Commonwealth who discovers unmarked skeletal remains or who knowingly disturbs such remains is required to immediately notify the medical examiner of the district or county where the remains are located. The medical examiner must then conduct an inquiry to determine whether the remains are suspected of being 100 years old or more, in which case he shall immediately notify the State Archaeologist. If the remains are determined to be of archaeological significance, the Commission on Indian Affairs is notified and a site evaluation is made to determine if the remains are Native American Indian. If so, the State Archaeologist, landowner and Commission on Indian Affairs will determine whether alternatives exist to avoid or minimize harm to the site. If there are no alternatives for in situ preservation, the State Archaeologist will excavate the site under the supervision of the commission. The State Archaeologist and commission determine if immediate disposition or skeletal analysis is appropriate. If immediate reinterment is the option, the Commission is responsible. Analysis may not exceed one year, unless an extension is granted by the Commission. After analysis, the commission is responsible for reinterment.

Jurisdiction: Unmarked prehistoric burials on state and private lands.

Statute of Limitations: Not specified.

Areas Covered Under Act: Any unmarked skeletal remains. Ownership: The Commission on Indian Affairs.

Review/Consultation Committee: The State Archaeologist must consult with the Commission on Indian Affairs and other interested parties will be consulted throughout the process.

Liable: Anyone who violates the law and removes remains without a permit.

Penalties: Anyone who, without lawful authority, willfully digs up, disinters, removes or conveys away a human body or the remains thereof or is an accessory to such an act is punishable by imprisonment in the state prison for not more than three years, or in jail for not more than two and one half years, or by a fine of not more than \$2,000. The willful destruction, mutilation, injury, or removal, or wanton disturbance of the contents of a tomb or grave is punishable by imprisonment ranging from not more than two and one-half years in jail up to five years in the state prison and by a fine not to exceed \$5,000.

Exemptions: Not specified.

Permitting: The State Archaeologist is responsible for issuing archaeological permits for all excavations.