

Montana Indian Burial Laws

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MONTANA

Citation: Human Skeletal Remains and Burial Site Protection Act (Montana Code Ann. Â§22-3-801 through Â§22-3-811).

Date Enacted: 1991

Summary: The Human Skeletal Remains and Burial Site Protection Act applies to all human skeletal remains and burial sites on state and private lands not protected as cemeteries. The law establishes the Burial Preservation Board. Upon discovery of human remains through ground disturbing activity including agriculture, the activity ceases and the coroner is contacted within two days. The coroner has two days to decide if remains are of a criminal act or of archaeological significance. If the remains are archaeologically significant, the coroner has 24 hours to contact the SHPO. Within 24 hours the SHPO must contact the land owner and the Burial Preservation Board or the nearest reservation representative. Within 36 hours of the Board being notified, a representative will perform an initial field review which must be completed within 36 hours to determine if the site can be preserved in situ, negotiate with the landowner, or recommend final disposition. If agreement with landowner cannot be reached within 40 days of notification, the remains must be removed and the Board is responsible for the ultimate disposition and descendants or a cultural group must be identified if possible. Scientific study is permissible for up to one year after application is obtained. A series of fines and prison sentences ranging from \$100 to \$50,000 and up to 20 years in jail are applicable.

Jurisdiction: All state and private lands in Montana.

Statute of Limitations: Not specified.

Areas Covered Under Act: Human skeletal remains, burial sites and burial material.

Ownership: Not specified.

Review/Consultation Committee: The Burial Preservation Board is established under this Act.

Liable: Anyone who purposely or knowingly disturbs, destroys or pilfers; allows such actions to occur to an unmarked grave or burial; knowingly possesses, buys, sells, transports or displays human skeletal remains or burial materials; or purposely or knowingly discloses information that leads to disturbing remains or a burial site.

Penalties: Fines range from \$100 to \$50,000 and prison sentences up to 20 years.

Exemptions: Not specified.

Permitting: Permits are issued by the Board and fees are not to exceed \$50.00.