

New Mexico Indian Burial Laws

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NEW MEXICO

Citation: Permits Required for Excavation of Unmarked Burials (NM Stat. Ann. Â§18-6-11.2); Endowed Care Cemetery Act (NM Stat. Ann. Â§30-12-12 Criminal Codes, NM Stat. Ann. Â§58-17-1).

Date Enacted: 1989

Summary: The law protects unmarked human burials including artifacts and human remains. Permit requirement for excavation of unmarked burials and penalties were added to the statute in 1989. Upon discovery human remains, the disturbing activity ceases and the local law enforcement agency is notified, who then notifies the medical examiner and State Historic Preservation Officer. Permits to excavate the unmarked human burial are issued by the Cultural Properties Review Committee within 60 days of application. The application must include plans for disposition or reinterment of the human remains and objects. Permits for excavation of human burials discovered during construction or land modification will be issued by the committee in consultation with the State Archaeologist and SHPO. Permits will also be issued on an annual basis to professional archaeological consultants and organizations. When the committee requires as a condition of the permit any object or artifact associated with a human burial be reinterred or disposed of, that burial will become the property of the person owning the land on which the artifacts or remains are discovered. It is a 4 th Degree felony to knowingly, willingly or intentionally excavate, remove, disturb or destroy, without a permit, any human burial on state or private property. Fines will not exceed \$5,000 or imprisonment for 18 months or both. The offender will forfeit all objects, artifacts and human remains to the state.

Jurisdiction: All state and private lands in New Mexico.

Statute of Limitations: Not specified.

Areas Covered Under Act: All unmarked human burials and associated artifacts.

Ownership: Violations of the permitting process forfeit remains and objects to the state, otherwise the landowner.

Review/Consultation Committee: State Archaeologist and State Historic Preservation Officer must consult with the Cultural Properties Review Committee.

Liability: Anyone who knowingly, willingly and intentionally excavates, removes, disturbs or destroys, without a permit, any human burial on state or private property. **Penalties:** Violations are 4 th Degree felony with maximum fine up to \$5,000 or 18 months imprisonment, or both.

Exemptions: Not specified.

Permitting: Permits issued by the Cultural Properties Review Committee.