

South Dakota Indian Burial Laws

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SOUTH DAKOTA

Citation: Cemeteries and Burial Records (SD Codified Laws Ann. Â§34-27-21, et seq.).

Date Enacted: 1990, amended in 1991

Summary: The law addresses human skeletal remains and funerary objects found anywhere in South Dakota. It is a Class six felony to knowingly buy, sell or barter human skeletal remains or funerary objects previously buried in the state; to knowingly display funerary objects or human skeletal remains previously buried in the state for profit or to aid and abet a commercial enterprise; or to knowingly disturb or allow disturbance of human skeletal remains or funerary objects, unless it is done by law enforcement officers or coroner. Anyone who discovers human remains immediately ceases the disturbing activity and reports the discovery to the appropriate law enforcement officer. Willful failure to report such a discovery within 48 hours is a class two misdemeanor. If the remains are not the result of crime, the State Archaeologist is contacted within 15 days. The State Archaeologist will issue permits to individuals authorized to disturb human skeletal remains and funerary objects. The State Historical Society will establish procedures to be followed in regard to final disposition of the remains. In addition, any state institution which comes into possession of human skeletal remains or associated funerary objects after July 1, 1990, has 15 days to contact the State Archaeologist who has up to one year to identify the remains or objects. If the remains are determined not to be of direct relation to a tribal group, defined as a federally recognized Indian tribe, the State Archaeologist is responsible for their final disposition after consultation with the Director of the State Office of History. If the remains are of direct relation to a tribal group, the State Archaeologist notifies the Director of the State Office of History and contacts the tribal group as designated by the Office of Indian Affairs. If within one year of the first contact, the tribe requests return of the remains or objects, the State Archaeologist shall turn over to the group the remains or objects. If within one year of the first contact, the group has not requested the return of the remains or objects, the State Archaeologist is responsible for the final disposition after consultation with the director of the State Office of History. Tribes may file an appeal within 30 days if the State Archaeologist refuses to return the remains or objects.

Jurisdiction: All private and public lands in the state of South Dakota.

Statute of Limitations: Not specified.

Areas Covered Under Act: Human skeletal remains and funerary objects are protected under the Act.

Ownership: Not specified.

Review/Consultation Committee: The State Archaeologist notifies the Director of the State Office of History and contacts officials of the tribal group as designated by the Office of Indian Affairs.

Liable: Anyone who knowingly buys, sells or barter human skeletal remains or funerary objects previously buried in the state; displays funerary objects or human skeletal remains previously buried in the state for profit; aids and abets a commercial enterprise; disturbs or allows disturbance of human skeletal remains or funerary objects is liable for prosecution. Also, anyone who willfully fails to report a discovery within 48 hours is guilty of a misdemeanor.

Penalties: It is a Class six felony to buy, sell, barter display, profit, disturb or allow disturbance of human skeletal remains or funerary objects except a law enforcement officers or coroner. It is a Class two misdemeanor to willfully fail to report such a discovery within 48 hours.

Exemptions: Not specified.

Permitting: The State Archaeologist will issue permits to individuals authorized by the State Historical Society.

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