

ENROLLED ACT NO. 31, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to criminal procedure; requiring notification of law enforcement and the coroner when human remains are discovered; providing for exhumation and reinterment of human remains on state and private lands; providing for notification of the state archaeologist and others of archaeological human remains and burials; requiring development of a protocol for consultation, repatriation and reinterment or other disposition of Native American human remains; creating a misdemeanor; making conforming amendments; requiring county coroners to produce an inventory; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 7-4-106 is created to read:

7-4-106. Archaeological human burial sites.

(a) The county coroner shall have jurisdiction over all archaeological human burials discovered in the county on state or private lands.

(b) When human remains are discovered:

(i) The person who discovers the remains shall cease the activity that caused the discovery of the remains and immediately notify law enforcement. If the remains are discovered on private land and the person who discovers the remains is not an agent of the landowner, the individual shall also notify the landowner;

(ii) When law enforcement is notified that human remains have been discovered within the limits of the county, law enforcement shall notify the coroner who shall determine

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the approximate age of the burial site. If the human remains constitute an archaeological human burial:

(A) On private land, the coroner shall notify the state archaeologist and the landowner;

(B) On state land, the coroner shall notify the state archaeologist and the office of state lands and investments. The office of state lands and investments shall notify any leaseholder;

(C) The state archaeologist's investigation to determine the forensic value and archaeological context shall be:

(I) Commenced within two (2) business days of the discovery to protect the integrity of the remains;

(II) Limited to the discovered human burial site.

(c) When human remains are exhumed:

(i) An archaeological human burial shall only be exhumed under the direction and supervision of the state archaeologist in coordination with the county coroner, and provided:

(A) The coroner shall notify the landowner of exhumation; and

(B) If the state archaeologist determines that the remains are Native American, the state archaeologist shall notify the Eastern Shoshone and Northern Arapaho Tribes before exhumation.

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(ii) Absent extraordinary circumstances, exhumation shall be completed not more than six (6) business days from the date the coroner notifies the state archaeologist of the archeological human burial discovery to protect the safety and integrity of the remains.

(d) When human remains are reinterred:

(i) When the state archaeologist determines that an archaeological human burial is Native American, after archaeological human remains are exhumed and before reinterment or repatriation, the state archaeologist and county coroner shall:

(A) Notify and consult with culturally affiliated Native American tribes in accordance with the protocol developed pursuant to subsection (f) of this section; and

(B) Expend reasonable effort to identify present day descendants.

(ii) When the state archaeologist determines that an archaeological human burial is not Native American, the state archaeologist shall expend reasonable effort to identify present day descendants and consult with them before reinterment;

(iii) If no descendants of the person whose remains were exhumed are identifiable, remains may be reinterred on state lands;

(iv) Subject to the notification of law enforcement, the coroner and the state archaeologist and the

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procedures in this section, nothing in this section precludes a landowner from working with descendants or Native American tribes to reinter human remains on private lands with the landowner's consent.

(e) Human remains shall be treated with respect, dignity and with consideration of religious, spiritual and ethnic evidence present at the burial site.

(f) The state archaeologist in cooperation with the state historic preservation office and county coroners shall work with culturally affiliated tribes including the Eastern Shoshone and Northern Arapaho tribes to develop a protocol for consultation, repatriation and reinterment or other disposition of Native American human remains.

(g) For purposes of this section, "archaeological human burial" includes human remains and funerary objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains at the time of death or later but does not include remains found in known or marked graves, found in established cemeteries or that demonstrate present medicolegal significance.

(h) A person who knowingly violates this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than five thousand dollars (\$5,000.00), or both.

Section 2. W.S. 6-4-501(b) and 36-4-106(d)(vi) are amended to read:

6-4-501. Opening graves and removing bodies; penalty; exception.

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(b) This section does not prohibit exhumation if ordered by a court of competent jurisdiction or if performed in accordance with W.S. 7-4-106(c).

36-4-106. Plan for acquisition and development of resources; authority of department; coordination of activities; exceptions; agreements with United States; state archaeologist.

(d) There shall be appointed within the department of state parks and cultural resources a state archaeologist, who shall be a member of the department of anthropology of the University of Wyoming. The state archaeologist shall receive an annual salary to be determined by the Wyoming human resources division, which shall be in addition to any compensation received from the university. The state archaeologist may:

(vi) Cooperate with all agencies to the extent of capacity in the protection from vandalism, natural and other kinds of destruction of all objects of archaeological significance, to investigate, exhume and consult regarding archaeological human burials pursuant to W.S. 7-4-106 and to render aid in the enforcement of the Wyoming Antiquities Act;

Section 3.

(a) Not later than January 30, 2020, each county coroner shall provide the state archaeologist an inventory of the archaeological or potential archaeological human remains that the coroner has in the coroner's storage facilities.

(b) The state archaeologist with the county coroner shall act in accordance with W.S. 7-4-106(d) and (e) as

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created by this act for the disposition of archaeological human remains identified in subsection (a) of this section.

Section 4. This act is effective July 1, 2019.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk