

Appendix A

South Dakota Legislature, South Dakota Codified Laws

Chapter 34-27

Cemeteries and Burial Records

34-27-25 Reporting discovery of human skeletal remains--Failure to report as misdemeanor. Any person who encounters or discovers human skeletal remains or what he believes may be human skeletal remains in or on the ground shall immediately cease any activity which may disturb those remains and shall report the presence and location of such human skeletal remains to an appropriate law enforcement officer. Willful failure to report the presence or discovery of human skeletal remains or what may be human skeletal remains within forty-eight hours to an appropriate law enforcement officer in the county in which the remains are found is a Class 2 misdemeanor.

Source: SL 1990, ch 6, § 5.

34-27-26 Disturbing human skeletal remains or funerary objects as felony. No person unless authorized by the state archaeologist may knowingly disturb or knowingly permit disturbance of human skeletal remains or funerary objects except a law enforcement officer or coroner or other official designated by law in performance of official duties. A violation of this section is a Class 6 felony.

Source: SL 1990, ch 6, § 6.

34-27-28 Notification to landowner and coroner--Notification to state archaeologist and tribal officials--Time limits. If a law enforcement officer has reason to believe that the skeletal remains, reported pursuant to § 34-27-25, may be human, he shall promptly notify the landowner and the coroner. If the remains reported under § 34-27-25 are not associated with or suspected of association with any crime, the state archaeologist shall be notified within fifteen days. The state archaeologist shall thereupon follow the procedure set out in § 34-27-31, except that the skeletal remains shall be turned over to the attorney general or any state's attorney should either request the remains for further investigation.

Source: SL 1990, ch 6, § 8; SL 1991, ch 281, § 3C.

34-27-30 Rules promulgated by State Historical Society Board of Trustees. The State Historical Society Board of Trustees shall promulgate rules pursuant to chapter 1-26:

1. To establish the persons who may be authorized by the state archaeologist to disturb human skeletal remains and funerary objects and the restrictions under which such persons shall operate; and
2. To establish procedures to be followed by the state archaeologist in the final disposition of human skeletal remains and funerary objects under § 34-27-31

Source: SL 1990, ch 6, § 10; SL 1991, ch 281, § 3E.

34-27-31 Discovery of human remains or funerary objects by state educational institution or museum--Contact state archaeologist--Notice to tribal officials--Tribal request--Disposition of remains or objects. If any state supported educational institution or state supported museum comes into possession of human skeletal remains or associated funerary objects from South Dakota following July 1, 1990, the institution or museum shall contact the state archaeologist within fifteen days of the find. Within a reasonable period of time from contact by the institution or museum, but not to exceed one year, the state archaeologist shall identify the remains or objects. If review by the state archaeologist demonstrates to his satisfaction that the remains or objects are not directly related to a tribal group, the state archaeologist is responsible for their final disposition after consultation with the director of the State Office of History. If review by the state archaeologist demonstrates to his satisfaction that there is a direct relationship of the remains or objects to a tribal group, the state archaeologist shall notify the director of the State Office of History and shall initiate contact with officials of that tribal group as designated by the Office of Indian Affairs. If, within one year of the first contact with the tribal group as set forth in this section, the tribal group requests return of the remains or objects, the state archaeologist shall turn over to the tribal group the remains or objects. If, within one year of the first contact with the tribal group as set forth in this section, the tribal group has not requested the return of the remains or objects, the state archaeologist is responsible for their final disposition after consultation with the director of the State Office of History.

Source: SL 1991, ch 281, § 3A.

34-27-32 Refusal to turn over remains or objects to tribal group--Appeal. Any refusal by the state archaeologist to turn over remains or objects to a tribal group after a request is made under § 34-27-31 is reviewable as final agency action under chapter 1-26. Any such appeal must be filed within thirty days of written notice of the refusal to the tribal group.

Source: SL 1991, ch 281, § 3B.

34-27-33 Confidentiality of archaeological records pertaining to location of unmarked burials and other human remains--Exceptions. Any record maintained pursuant to § 1-20-21 pertaining to the location of unmarked burials and other human remains shall remain confidential to protect the integrity of unmarked burials, human skeletal remains, and associated funerary objects. The state archaeologist may make the information from the records of such a site available to any agency of state government and any political subdivision of the state or to any tribe, which, in the opinion of the state archaeologist, may conduct activities that affect any such burial or human remains. The state archaeologist shall also make the information from the records of such a site available to the owner of the land that is such a site and may make the information available to any qualified researcher or research entity.

Source: SL 2007, ch 6, § 3.