



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3413

Introduced 2/17/2023, by Rep. Mark L. Walker

SYNOPSIS AS INTRODUCED:

20 ILCS 3440/2	from Ch. 127, par. 2662
20 ILCS 3440/7	from Ch. 127, par. 2667
20 ILCS 3440/12	from Ch. 127, par. 2672
20 ILCS 3440/13	from Ch. 127, par. 2673
20 ILCS 3440/14	from Ch. 127, par. 2674
20 ILCS 3440/17 new	

Amends the Human Skeletal Remains Protection Act. Changes references from "Indian" to "Native American" and "Historic Preservation Agency" to "Department of Natural Resources". Provides that the Director of Natural Resources, in cooperation with the Illinois State Museum, may create a cemetery on existing State lands for the reburial of repatriated Native American remains and materials. Provides that the cemetery shall not be used by the public and shall be protected by the State of Illinois. Provides that the Director of Natural Resources shall cooperate with the State Archaeologist and the Illinois State Museum to coordinate reinterment in the cemetery.

LRB103 30307 RLC 56735 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Human Skeletal Remains Protection Act is
5 amended by changing Sections 2, 7, 12, 13, and 14 and by adding
6 Section 17 as follows:

7 (20 ILCS 3440/2) (from Ch. 127, par. 2662)

8 Sec. 2. Legislative finding and intentions. The General
9 Assembly finds that existing laws do not provide equal or
10 adequate protection for all human graves. There is a real and
11 growing threat to the safety and sanctity of unregistered and
12 unmarked graves. Numerous incidents in Illinois have resulted
13 in the desecration of human remains and vandalism to grave
14 markers. Similar incidents have occurred in neighboring states
15 and as a result those states have increased their criminal
16 penalties for such conduct. There is a strong likelihood that
17 persons engaged for personal or financial gain in the mining
18 of prehistoric and historic Native American Indian, pioneer,
19 and Civil War veteran's graves will move their operations to
20 Illinois to avoid the increased penalties being imposed in
21 neighboring states. There is an immediate need for legislation
22 to protect the graves of these earlier Illinoisans from such
23 desecration. The General Assembly intends to assure with this

1 Act that all human burials be accorded equal treatment and
2 respect for human dignity without reference to ethnic origins,
3 cultural backgrounds or religious affiliations.

4 The General Assembly also finds that those persons engaged
5 in the scientific study or collecting of artifacts which have
6 not been acquired in violation of law are engaged in
7 legitimate and worthy scientific, educational and recreational
8 activities. This Act is not intended to interfere with the
9 continued legitimate collecting activities or studies of such
10 persons; nor is it intended to interfere with the normal
11 enjoyment of private property owners, farmers, or those
12 engaged in the development, mining or improvement of real
13 property.

14 (Source: P.A. 95-331, eff. 8-21-07.)

15 (20 ILCS 3440/7) (from Ch. 127, par. 2667)

16 Sec. 7. It is unlawful for any person, either by himself or
17 through an agent, to knowingly allow the disturbance of human
18 skeletal remains, unregistered graves, or grave markers on
19 property controlled by that person unless such disturbance is
20 authorized by a permit issued by the Department of Natural
21 Resources ~~Historic Preservation Agency~~.

22 (Source: P.A. 86-151.)

23 (20 ILCS 3440/12) (from Ch. 127, par. 2672)

24 Sec. 12. Persons convicted of a violation of Section 4 or 5

1 of this Act shall also be liable for civil damages to be
2 assessed by the Department of Natural Resources ~~Historic~~
3 ~~Preservation Agency~~. Civil damages may include:

4 (a) forfeiture of any and all equipment used in disturbing
5 the protected unregistered graves or grave markers;

6 (b) any and all costs incurred in cleaning, restoring,
7 analyzing, accessioning and curating the recovered materials;

8 (c) any and all costs associated with restoring the land
9 to its original contour or the grave marker to its original
10 condition;

11 (d) any and all costs associated with recovery of data,
12 and analyzing, publishing, accessioning and curating materials
13 when the prohibited activity is so extensive as to preclude
14 the restoration of the unregistered burials or grave markers;

15 (e) any and all costs associated with the reinterment of
16 the human skeletal remains;

17 (f) any and all costs associated with the determination
18 and collection of the civil damages.

19 When civil damages are recovered through the Attorney
20 General, the proceeds shall be deposited into the Historic
21 Sites Fund; when civil damages are recovered through the
22 State's Attorney, the proceeds shall be deposited into the
23 county funds designated by the county board.

24 (Source: P.A. 86-151.)

1 Sec. 13. (a) The Director ~~Department~~ of Natural Resources
2 shall develop regulations, in consultation with the Illinois
3 State Museum, whereby permits may be issued for the removal of
4 human skeletal remains and grave artifacts from unregistered
5 graves or the removal of grave markers.

6 (b) Each permit shall specify all terms and conditions
7 under which the removal of human skeletal remains, grave
8 artifacts, or grave markers shall be carried out. All costs
9 accrued in the removal of the aforementioned materials shall
10 be borne by the permit applicant. Upon completion of the
11 project, the permit holder shall submit a report of the
12 results to the Department of Natural Resources.

13 (Source: P.A. 100-695, eff. 8-3-18.)

14 (20 ILCS 3440/14) (from Ch. 127, par. 2674)

15 Sec. 14. All human skeletal remains and grave artifacts in
16 unregistered graves are held in trust for the people of
17 Illinois by the State and are under the jurisdiction of the
18 Department of Natural Resources. All materials collected under
19 this Act shall be maintained, with dignity and respect, for
20 the people of the State under the care of the Illinois State
21 Museum and in compliance with the Native American Graves
22 Protection and Repatriation Act of 1990.

23 (Source: P.A. 100-695, eff. 8-3-18.)

24 (20 ILCS 3440/17 new)

1 Sec. 17. Cemetery for the reburial of repatriated Native
2 American remains and materials. The Director of Natural
3 Resources, in cooperation with the Illinois State Museum, may
4 create a cemetery on existing State lands for the reburial of
5 repatriated Native American remains and materials. The
6 cemetery shall not be used by the public and shall be protected
7 by the State of Illinois. The Director of Natural Resources
8 shall cooperate with the State Archaeologist and the Illinois
9 State Museum to coordinate reinterment in the cemetery.