

SENATE FILE NO. SF0078

Archaeological human burial sites.

Sponsored by: Senator(s) Boner, Anselmi-Dalton, Case, Ellis  
and Hicks and Representative(s) Blake,  
Clausen, Clifford, Larsen and Lindholm

A BILL

for

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

12

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

14

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

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2           **7-4-106. Archaeological human burial sites.**

3

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

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8           (b) When human remains are discovered:

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

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17           (ii) When law enforcement is notified that human  
18 remains have been found within the limits of the county, law  
19 enforcement shall notify the coroner who shall determine the  
20 approximate age of the burial site. If the human remains  
21 constitute an archaeological human burial:

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

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

8

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

12

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

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16                   (II) Limited to the discovered human  
17 burial site.

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19           (c) When human remains are exhumed:

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21                   (i) An archaeological human burial shall only be  
22 exhumed under the direction and supervision of the state

1 archaeologist in coordination with the county coroner, and  
2 provided:

3

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

6

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

11

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

17

18 (d) When human remains are reinterred:

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20 (i) When the state archaeologist determines that  
21 an archaeological human burial is Native American, after  
22 archaeological human remains are exhumed and before

1 reinterment or repatriation, the state archaeologist and  
2 county coroner shall:

3

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

8

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

11

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

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

21

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

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

5

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

9

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

16

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

1 cemeteries or that demonstrate present medicolegal  
2 significance.

3

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

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

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12 **6-4-501. Opening graves and removing bodies; penalty;**  
13 **exception.**

14

15 (b) This section does not prohibit exhumation if  
16 ordered by a court of competent jurisdiction or if performed  
17 according to W.S. 7-4-106.

18

19 **36-4-106. Plan for acquisition and development of**  
20 **resources; authority of department; coordination of**  
21 **activities; exceptions; agreements with United States; state**  
22 **archaeologist.**

23

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

9  
10           (vi) Cooperate with all agencies to the extent of  
11 capacity in the protection from vandalism, natural and other  
12 kinds of destruction of all objects of archaeological  
13 significance, to investigate, exhume and consult regarding  
14 archaeological human burials pursuant to W.S. 7-4-106 and to  
15 render aid in the enforcement of the Wyoming Antiquities Act;

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17           **Section 3.**

18

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

23



1           (b)    The state archaeologist with the county coroner  
2 shall act in accordance with W.S. 7-4-106(d) and (e) as  
3 created by this act for the disposition of archaeological  
4 human remains identified in subsection (a) of this section.

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

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8

(END)