SENATE BILL  

AN ACT  relative to African American burial grounds.


COMMITTEE:  Energy and Natural Resources

ANALYSIS

This bill requires the consultation with the descendants or descendant community prior to excavation or exploration of African American burial grounds.

Explanation:  Matter added to current law appears in bold italics.
Matter removed from current law appears [in brackets and struckthrough.]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to African American burial grounds.

Be it Enacted by the Senate and House of Representatives in General Court convened:

200:1 Discovery of Remains and Notification of Authorities; African American Burial Grounds.
Amend RSA 227-C:8-a, III to read as follows:
III.(a) If the unmarked human burials or human remains are encountered by a professional
archaeologist, as a result of survey or test excavations, the remains may be excavated and other activities
may resume after notification, by telephone or certified letter, is provided to the state archaeologist, and
immediate notification is given to living descendants or specific groups known to have affinity with the
remains. The treatment, analysis, and disposition of the remains shall be as provided in RSA 227-C:8-c
and 8-g.

(b) If a professional archaeologist directing long-term systematic archaeological research,
that is, research designed to continue for one or more field seasons of 4 or more weeks' duration,
sponsored by any accredited institution, accredited college or university with research interests in New
Hampshire, as a part of his or her research, recovers Native American remains or remains from a
suspected African American burial ground, he or she may be exempted from the provisions of RSA 227-
C:8-b through 8-f and 8-g, III so long as he or she:
(1) Notifies the state archaeologist within 5 working days of the initial discovery of either
the Native American remains or the remains from a suspected African American burial ground.
(2) Reports to the state archaeologist, at agreed upon intervals, the status of the project;
(3) Curates the remains prior to ultimate disposition; and
(4) Conducts no destructive skeletal analysis without the express permission of the state
archaeologist.

Upon completion of the project fieldwork, the professional archaeologist, in consultation with the
skeletal analyst and the state archaeologist, shall determine the schedule for the completion of the
skeletal analysis. In the event of a disagreement, the time for completion of the skeletal analysis shall not
exceed 4 years. The director or [his] their designee, after consultation with the state archaeologist, shall
have authority concerning the ultimate disposition of the Native American remains after analysis is
completed in accordance with RSA 227-C:8-g, I and 8-h, II and III. The ultimate disposition of remains
and other archaeological materials such as markers, gates, mortuary materials or other archaeological
materials found in an African American burial ground shall be in consultation with the descendants or
descendant community.

(c) The state archaeologist shall notify the county medical examiner of any reported human
skeletal remains discovered by a professional archaeologist.
200:2 Consultation with Native American and African American Communities; African American Burial Grounds. Amend RSA 227-C:8-d to read as follows:

227-C:8-d Consultation with Native American Community and African American Community.

I. (a) If the professional archaeologist determines that the human remains are Native American and the remains are known to have affinity to federally recognized Indian tribes or specific living ethnic groups or other nonfederally recognized Indian groups, the state archaeologist shall immediately notify the leaders, officials, or spokespersons for these tribes or groups wherever the appropriate tribes or groups are located, whether in or outside the state of New Hampshire. The state archaeologist shall consult with such persons who respond in a timely fashion in the determination of the most appropriate treatment for the interments.

(b) If the professional archaeologist determines that the human remains are from an African American burial ground the state archaeologist shall immediately notify the descendants or descendant community, whether in or outside the state of New Hampshire. The state archaeologist shall consult with such persons who respond in a timely fashion in the determination of the most appropriate treatment for the interments.

II. Within 4 weeks of the notification, the appropriate Indian tribe or group or African American community shall communicate in writing to the state archaeologist its concerns with regard to the treatment of interment and ultimate disposition of the Native American remains or remains from an African American burial ground, whichever applies.

III. Within 90 days of the receipt of the concerns, the state archaeologist, with the approval of the principal official or officials of the Indian group or tribe, or the descendants or descendant community associated with the African American burial ground, whichever is applicable, shall prepare a written agreement concerning the treatment and ultimate disposition of the [Native American] remains. The written agreement shall include the following:

(a) Designation of a qualified skeletal analyst to work on the skeletal remains;

(b) The type of analysis and the specific period of time to be provided for analysis of the skeletal remains;

(c) The timetable for written progress reports and the final report concerning the analysis to be provided to the state archaeologist by the skeletal analyst and the professional archaeologist; and

(d) A plan for ultimate disposition of Native American remains or remains from an African American burial ground, whichever is applicable, subsequent to the completion of adequate analysis.

IV. If no agreement is reached within 90 days, the state historic preservation officer and commissioner shall determine the terms of the agreement.

200:3 Disposition of Human Remains; African American Burial Grounds. Amend RSA 227-C:8-g to read as follows:

227-C:8-g Disposition of Human Remains.

I. (a) If the human remains are Native American, the director or [his] their designee, after consultation with an appropriate federally recognized Indian tribe or specific living ethnic group or other
nonfederally recognized Indian group, shall determine the ultimate disposition of the remains after the analysis.

(b) If the human remains are from a newly discovered African American burial ground, the director or their designee, after consultation with the descendants or descendant community associated with the African American burial ground, shall determine the ultimate disposition of the remains after the analysis.

II. If the skeletal remains are other than Native American or from an African American burial ground, and the next of kin have been identified, the next of kin shall have authority concerning the ultimate disposition of the remains after the analysis.

III. If the state archaeologist has received no information or communication concerning the identity or next of kin of the deceased, the remains shall be transferred to the state archaeologist who shall arrange for either permanent curation according to standard museum procedures or for reburial in a public cemetery after adequate analysis.

IV. In the case of remains encountered during the course of long-term research of a professional archaeologist is provided in RSA 227-C:8-a, III(b), the director or [his] their designee, on recommendation of the state archaeologist, may grant permission to a sponsoring institution, which shall include accredited colleges, universities, museums, or professional archaeological organizations, to permanently curate the remains according to standard museum procedures after appropriate analysis is completed.

V. (a) If a determination is made by the director or [his] their designee and the commissioner, in consultation with an appropriate federally recognized Indian tribe or specific living ethnic group or other nonfederally recognized Indian group, that Native American remains shall be reinterred following the completion of analysis, an appropriate tribe or group may provide a suitable reburial location and reburial ceremony. If it elects not to do so, it shall be the responsibility of the department to provide a suitable reburial location.

(b) If a determination is made by the director or their designee and the commissioner, in consultation with the descendants or descendant community associated with the African American burial ground, that the African American remains shall be reinterred following the completion of analysis, the community may provide a suitable reburial location and reburial ceremony. If it elects not to do so, it shall be the responsibility of the department to provide a suitable reburial location.

VI. The expense of transportation of Native American remains or remains from an African American burial ground to the reburial location shall be borne by the party conducting the excavation and removal of the remains. The reburial ceremony may be provided by an appropriate federally recognized Indian tribe or specific living ethnic group or other nonfederally recognized Indian group. If such tribe or group elects not to do so, the reburial ceremony shall be the responsibility of the director or [his] their designee and the commissioner.

200:4 Consultation with Other Individuals; African American Burial Grounds. Amend RSA 227-C:8-e, I to read as follows:

I. If the professional archaeologist determines that the human skeletal remains are other than Native American or from an African American burial ground, the state archaeologist shall publish notice
that excavation of the remains has occurred, at least once per week for 4 successive weeks in a
newspaper of general circulation in the county where the burials or skeletal remains were situated, in an
effort to determine the identity or next of kin, or both, of the deceased.

200:5 New Paragraphs; Cemetery Trustees; Maintenance, Repair, and Preservation of Burial
Grounds; Addition of African American Graves. Amend RSA 289:14-a by inserting after paragraph V the
following new paragraphs:

VI. Any activities undertaken under this section involving an African American grave shall be
conducted in consultation with the descendant community.

VII. Any African American remains, marker, gate, or associated mortuary or archaeological
materials that have been removed from a site shall be returned for reburial or placement at the grave site,
or if removed under the provisions of paragraph V, in consultation with the descendant community.

VIII. Any African American remains, marker, gate, or associated mortuary or archaeological
materials that have been removed from a cemetery or burial ground shall be returned for reburial or
placement at the grave site, in consultation with the descendants or descendant community. If such
return is deemed to be not feasible or appropriate by the descendants or descendant community, they
shall be deposited in another suitable location, under paragraph V, in consultation with the
descendants or descendant community, by June 30, 2028.

IX. The New Hampshire division of historical resources, department of natural and cultural
resources, shall serve in an advisory capacity to municipalities and the descendants and descendant
community in complying with paragraphs VI-VIII of this section.

200:6 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 04, 2023
Effective Date: October 03, 2023