

CHAPTER 200
SB 11 - FINAL VERSION

01/19/2023 0014s
8Jun2023... 1597h
06/29/2023 2242EBA

2023 SESSION

23-0564
08/04

SENATE BILL **11**

AN ACT relative to African American burial grounds.

SPONSORS: Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Rosenwald, Dist 13; Sen. Altschiller, Dist 24; Sen. Fenton, Dist 10; Sen. Whitley, Dist 15; Sen. Avar, Dist 12; Sen. D'Allesandro, Dist 20; Sen. Prentiss, Dist 5; Sen. Gannon, Dist 23; Sen. Chandley, Dist 11; Sen. Carson, Dist 14; Rep. DiLorenzo, Rock. 10

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 struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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.

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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

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1 nonfederally recognized Indian group, shall determine the ultimate disposition of the remains after the
2 analysis.

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

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

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

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

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

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

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

36 200:4 Consultation with Other Individuals; African American Burial Grounds. Amend RSA 227-C:8-e,
37 I to read as follows:

38 I. If the professional archaeologist determines that the human skeletal remains are other than
39 Native American *or from an African American burial ground*, the state archaeologist shall publish notice

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1 that excavation of the remains has occurred, at least once per week for 4 successive weeks in a
2 newspaper of general circulation in the county where the burials or skeletal remains were situated, in an
3 effort to determine the identity or next of kin, or both, of the deceased.

4 200:5 New Paragraphs; Cemetery Trustees; Maintenance, Repair, and Preservation of Burial
5 Grounds; Addition of African American Graves. Amend RSA 289:14-a by inserting after paragraph V the
6 following new paragraphs:

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

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

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

18 IX. The New Hampshire division of historical resources, department of natural and cultural
19 resources, shall serve in an advisory capacity to municipalities and the descendants and descendant
20 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