

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 Archaeological and Paleontological
5 Resources Protection Act is amended by changing Sections .02
6 and 5 as follows:

7 (20 ILCS 3435/.02) (from Ch. 127, par. 133c.02)

8 Sec. .02. For purposes of this Act:

9 (a) "Archaeological resource" means any significant
10 material remains or localities of past human life or
11 activities on public land, including but not limited to
12 artifacts, historic and prehistoric human ~~skeletal~~ remains,
13 mounds, earthworks, shipwrecks, forts, village sites or mines.

14 (b) "Disturb" includes defacing, mutilating, injuring,
15 exposing, removing, destroying, desecrating or molesting in
16 any way.

17 (c) "Paleontological resource" means any significant
18 fossil or material remains on public lands including traces or
19 impressions of animals or plants that occur as part of the
20 geological record that are known and are included in the files
21 maintained by the Illinois State Museum under Section 10.

22 (d) "Person" means any natural individual, firm, trust,
23 estate, partnership, association, joint stock company, joint

1 venture, corporation or a receiver, trustee, guardian or other
2 representative appointed by order of any court, the federal
3 and State governments, including State universities created by
4 statute or any city, town, county or other political
5 subdivision of this State.

6 (e) "Public land" means any land owned, but does not
7 include land leased as lessee, by the State of Illinois or its
8 agencies, a State university created by statute, a
9 municipality or a unit of local government.

10 (Source: P.A. 86-459; 86-707.)

11 (20 ILCS 3435/5) (from Ch. 127, par. 133c5)

12 Sec. 5. Any violation of Section 3 not involving the
13 disturbance of human ~~skeletal~~ remains is a Class A misdemeanor
14 and the violator shall be subject to imprisonment and a fine
15 not in excess of \$5,000; any subsequent violation is a Class 4
16 felony. Any violation of Section 3 involving disturbance of
17 human ~~skeletal~~ remains is a Class 4 felony. Each disturbance
18 of an archaeological site or a paleontological site shall
19 constitute a single offense. Persons convicted of a violation
20 of Section 3 shall also be liable for civil damages to be
21 assessed by the land managing agency and the Department of
22 Natural Resources. Civil damages may include:

23 (a) forfeiture of any and all equipment used in
24 acquiring the protected material;

25 (b) any and all costs incurred in cleaning, restoring,

1 analyzing, accessioning and curating the recovered
2 materials;

3 (c) any and all costs associated with restoring the
4 land to its original contour;

5 (d) any and all costs associated with recovery of data
6 and analyzing, publishing, accessioning and curating
7 materials when the prohibited activity is so extensive as
8 to preclude the restoration of the archaeological or
9 paleontological site;

10 (e) any and all costs associated with the
11 determination and collection of the civil damages.

12 When civil damages are recovered through the Attorney
13 General, the proceeds shall be deposited into the Historic
14 Sites Fund; when civil damages are recovered through the
15 State's Attorney, the proceeds shall be deposited into the
16 county fund designated by the county board.

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

18 Section 10. The Human Skeletal Remains Protection Act is
19 amended by changing Sections 0.01, 1, 3, 4, 4.5, 5, 6, 7, 8, 9,
20 10, 12, 13, 14, and 15 and by adding Sections 3.5 and 17 as
21 follows:

22 (20 ILCS 3440/0.01) (from Ch. 127, par. 2660)

23 Sec. 0.01. Short title. This Act may be cited as the Human
24 ~~Skeletal~~ Remains Protection Act.

1 (Source: P.A. 86-1324.)

2 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

3 Sec. 1. Definitions. For the purposes of this Act:

4 (a) "Human ~~skeletal~~ remains" include the bones and
5 decomposed fleshy parts of a deceased human body.

6 (b) "Unregistered graves" are any graves or locations
7 where a human body has been buried or deposited; is over 100
8 years old; and is not in a cemetery registered with or licensed
9 by the State Comptroller under the Cemetery Care Act or under
10 the authority of the Illinois Department of Financial and
11 Professional Regulation pursuant to the Cemetery Oversight
12 Act, whichever is applicable.

13 (c) "Grave artifacts" are any item of human manufacture or
14 use that is associated with the human skeletal remains in an
15 unregistered grave.

16 (d) "Grave markers" are any tomb, monument, stone,
17 ornament, mound, or other item of human manufacture that is
18 associated with an unregistered grave.

19 (e) "Person" means any natural individual, firm, trust,
20 estate, partnership, association, joint stock company, joint
21 venture, corporation or a receiver, trustee, guardian or other
22 representatives appointed by order of any court, the Federal
23 and State governments, including State Universities created by
24 statute or any city, town, county or other political
25 subdivision of this State.

1 (f) "Disturb" includes excavating, removing, exposing,
2 defacing, mutilating, destroying, molesting, or desecrating in
3 any way human skeletal remains, unregistered graves, and grave
4 markers.

5 (g) "Consultation" means a formal, two-way,
6 government-to-government dialogue between official
7 representatives of federally recognized tribes and the United
8 States Department of the Interior to discuss federal proposals
9 before the United States Department of the Interior makes
10 decisions on those proposals. The United States Department of
11 the Interior, the Department of Natural Resources, and the
12 Illinois State Museum shall provide sufficient notice to
13 appropriate federally recognized tribal leaders of upcoming
14 consultation sessions and, following the consultations
15 sessions, report to those tribal leaders how the final
16 decision incorporates tribal input.

17 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

18 (20 ILCS 3440/3) (from Ch. 127, par. 2663)

19 Sec. 3. Notification to coroner. Any person who discovers
20 human ~~skeletal~~ remains subject to this Act shall promptly
21 notify the coroner within 48 hours. Any person who knowingly
22 fails to report such a discovery within 48 hours is guilty of a
23 Class C misdemeanor, unless such person has reasonable cause
24 to believe that the coroner had already been so notified. If
25 the human ~~skeletal~~ remains appear to be from an unregistered

1 grave, the coroner shall promptly notify the Department of
2 Natural Resources prior to their removal. ~~Nothing in this Act~~
3 ~~shall be construed to apply to human skeletal remains subject~~
4 ~~to "An Act to revise the law in relation to coroners".~~

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

6 (20 ILCS 3440/3.5 new)

7 Sec. 3.5. Native American Review Group. The State of
8 Illinois presents a unique situation in that it has not
9 maintained meaningful consulting relationships with tribal
10 nations aboriginal to the land now known as the State of
11 Illinois. Without meaningful relationships between the State
12 of Illinois and tribal nations, there has been harm caused to
13 tribal nations and trust needs to be rebuilt as the State works
14 to correct those harmful mistakes. As tribal nations
15 strengthen their histories, it is of utmost importance to
16 uphold law and policy in relation to the sovereign status of
17 tribes. Despite the State of Illinois' long history of
18 removing tribal nations, this Act requires that a project that
19 may affect a historical property of religious and cultural
20 significance to the affected tribe or tribes be subject to
21 consultation and review from the Native American Review Group
22 at the Illinois State Museum. Historical properties of
23 religious and ceremonial significance include: archeological
24 sites, burial grounds, and mounds. The types of activities
25 that may affect properties of religious and cultural

1 significance include: actions taken to disturb the ground and
2 new construction in underdeveloped natural areas.

3 The Native American Review Group shall be appointed by the
4 Director of Natural Resources and shall consist of at least
5 one tribal representative from each one of the over 30 tribal
6 nations that have been identified as having historical
7 presence in Illinois. These representatives shall be a tribal
8 chairperson, tribal historic preservation officer, or
9 designated official for the respective tribe. The Native
10 American Review Group shall be notified immediately and all
11 activity on the property shall immediately cease if: (1)
12 remains are found; (2) any property with religious and
13 cultural significance will be disturbed; and (3) any property
14 with religious and cultural significance is accidentally
15 disturbed. This group shall convene and review any request
16 made to the Department of Natural Resources for a land permit.
17 The Department of Natural Resources may issue a land permit
18 only after the Native American Review Group has reviewed the
19 proposal and approved the request or provided revisions to the
20 request.

21 (20 ILCS 3440/4) (from Ch. 127, par. 2664)

22 Sec. 4. Human burial sites; knowingly disturbing human
23 skeletal remains; penalty; permit. It is unlawful for any
24 person, either by oneself ~~himself~~ or through an agent, to
25 knowingly disturb human skeletal remains, grave markers, and

1 grave artifacts in unregistered graves protected by this Act
2 unless such person obtains a permit issued by the Department
3 of Natural Resources. Any person who violates this Section
4 commits a Class 4 felony. When grave disturbances must occur a
5 land permit must be obtained from the Department of Natural
6 Resources. When a land permit request is received, the
7 Department of Natural Resources shall immediately contact the
8 Director of Tribal Relations at the Illinois State Museum who
9 shall immediately engage the Native American Review Group who
10 shall approve or deny the request.

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

12 (20 ILCS 3440/4.5)

13 Sec. 4.5. O'Hare Modernization.

14 The O'Hare Modernization Act shall be subject to this Act.
15 Any future O'Hare developments must be reviewed and approved
16 by the Native American Review Group. ~~Nothing in this Act~~
17 ~~limits the authority of the City of Chicago to exercise its~~
18 ~~powers under the O'Hare Modernization Act or requires that~~
19 ~~City, or any person acting on behalf of that City, to obtain a~~
20 ~~permit under this Act when acquiring property or otherwise~~
21 ~~exercising its powers under the O'Hare Modernization Act.~~

22 (Source: P.A. 93-450, eff. 8-6-03.)

23 (20 ILCS 3440/5) (from Ch. 127, par. 2665)

24 Sec. 5. Human burial sites; appropriation for sale;

1 penalty. It is unlawful for any person, either by himself or
2 through an agent, to recklessly appropriate for profit, use
3 for profit, sell, purchase, or transport for sale or profit
4 any human remains, grave artifacts, or grave markers. A person
5 who violates this Section commits a Class A misdemeanor for a
6 first violation and a Class 4 felony for a second or subsequent
7 violation ~~knowingly disturb a grave marker protected by this~~
8 ~~Act unless such person obtains a permit issued by the~~
9 ~~Department of Natural Resources.~~

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

11 (20 ILCS 3440/6) (from Ch. 127, par. 2666)

12 Sec. 6. Human burial sites; unknowingly disturb; actions;
13 permits. If the State Burial Coordinator determines that
14 infrastructure repair, renovation, or improvements will
15 disturb an unregistered grave, human remains, or a grave
16 marker, then the State Burial Coordinator shall determine
17 whether the grave, remains, or grave marker is Native
18 American. If the grave, remains, or grave marker is identified
19 as Native American by the State Burial Coordinator, then any
20 and all work must immediately cease, and within 48 hours, the
21 Department of Natural Resources must be notified and the
22 formal Section 106 consultation process with Native American
23 nations must take place before any work can resume. For work to
24 proceed, a land permit must be issued by the Department of
25 Natural Resources after appropriate tribal review and

1 consultation has been completed. A person who violates this
2 Section commits a Class A misdemeanor for a first violation
3 and a Class 4 felony for a second or subsequent violation. It
4 is unlawful for any person, either by himself or through an
5 agent, to offer any human skeletal remains, grave artifacts or
6 grave markers for sale or exchange with the knowledge that
7 they have been collected or excavated in violation of this
8 Act.

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

10 (20 ILCS 3440/7) (from Ch. 127, par. 2667)

11 Sec. 7. Human burial sites-knowingly disturb private
12 property, permitting, penalties. It is unlawful for any
13 person, either by himself or through an agent, to knowingly
14 allow the disturbance of human ~~skeletal~~ remains, unregistered
15 graves, grave artifacts or grave markers on property
16 controlled by that person unless such disturbance is
17 authorized by a permit issued by the Historic Preservation
18 Agency. A person who violates this Section commits a Class A
19 misdemeanor for a first violation and a Class 4 felony for a
20 second or subsequent violation. When grave disturbances must
21 occur, a land permit must be obtained from the Department of
22 Natural Resources, and the State Burial Coordinator shall
23 determine whether the grave that is to be disturbed is a Native
24 American grave. When a land permit request is received, the
25 Department of Natural Resources shall immediately contact the

1 Director of Tribal Relations at the Illinois State Museum who
2 shall immediately engage the Native American Review Group who
3 shall approve or deny the request.

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

5 (20 ILCS 3440/8) (from Ch. 127, par. 2668)

6 Sec. 8. Criminal prosecutions for violations of Act. The
7 State's Attorney of the county in which a violation of
8 ~~Sections 4, 5, 6, or 7~~ of this Act is alleged to have occurred,
9 or the Attorney General, may be requested by the Department
10 ~~Director~~ of Natural Resources to initiate criminal
11 prosecutions or to seek civil damages, injunctive relief and
12 any other appropriate relief. The Department of Natural
13 Resources shall co-operate with the State's Attorney or the
14 Attorney General. Persons aware of any violations of this Act
15 shall contact the Department of Natural Resources.

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

17 (20 ILCS 3440/9) (from Ch. 127, par. 2669)

18 Sec. 9. Reward for information leading to arrest and
19 conviction of offenders. The Department of Natural Resources
20 is authorized to offer a reward of up to \$5,000 ~~\$2,000~~ for
21 information leading to the arrest and conviction of persons
22 who violate Section ~~Sections~~ 4, 5, 6, and 7 of this Act.

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

1 (20 ILCS 3440/10) (from Ch. 127, par. 2670)

2 Sec. 10. Registry of offenders. The Department of Natural
3 Resources shall create a registry of offenders who violate
4 this Act and shall impose additional penalties on repeat
5 offenders ~~Any violation of Sections 4, 6 or 7 of this Act is a~~
6 ~~Class A misdemeanor and the violator shall be subject to~~
7 ~~imprisonment for not more than 1 year and a fine not in excess~~
8 ~~of \$10,000; any subsequent violation is a Class 4 felony. Each~~
9 ~~disturbance of an unregistered grave constitutes a separate~~
10 ~~offense.~~

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

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

13 Sec. 12. Civil damages. Persons convicted of a violation
14 of Section 4, ~~or~~ 5, 6, or 7 of this Act shall also be liable
15 for civil damages to be assessed by the Department of Natural
16 Resources in consultation with Native American tribes ~~Historic~~
17 ~~Preservation Agency.~~ Civil damages may include:

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

20 (b) any and all costs incurred in cleaning, restoring,
21 analyzing, accessioning, traveling for tribal nation
22 representatives, and curating the recovered materials;

23 (c) any and all costs associated with restoring the land
24 to its original contour or the grave marker to its original
25 condition in consultation with federally recognized tribes;

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

5 (e) any and all costs for the State of Illinois and
6 affected tribal nations associated with the reinterment of the
7 human ~~skeletal~~ remains in consultation with federally
8 recognized tribes;

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

11 When civil damages are recovered through the Attorney
12 General, the proceeds shall be deposited into the Tribal
13 Repatriation ~~Historic Sites~~ Fund, which is created as a
14 special fund in the State treasury. The moneys in the Fund
15 shall be used, subject to appropriation, for tribal
16 repatriation or interment; when civil damages are recovered
17 through the State's Attorney, the proceeds shall be deposited
18 into the county funds designated by the county board
19 specifically and only used for tribal repatriation or
20 reinterment.

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

22 (20 ILCS 3440/13) (from Ch. 127, par. 2673)

23 Sec. 13. Permits for the disturbance or removal of human
24 remains.

25 (a) The Director ~~Department~~ of Natural Resources shall

1 develop regulations, in consultation with the Illinois State
2 Museum and federally recognized Native American nations
3 geographically and culturally affiliated with Illinois,
4 whereby permits may be issued for the disturbance or removal,
5 or both, of Native American human ~~skeletal~~ remains and grave
6 artifacts from unregistered graves or the disturbance or
7 removal, or both, of Native American grave markers.

8 (b) Each permit shall specify all terms and conditions
9 under which the removal of Native American human ~~skeletal~~
10 remains, Native American grave artifacts, or Native American
11 grave markers shall be carried out. All costs accrued in the
12 removal of the aforementioned materials shall be borne by the
13 permit applicant. Upon completion of the project, the permit
14 holder shall submit a report of the results to the Department
15 of Natural Resources, the Director of the Illinois State
16 Museum, and any affiliated federally recognized Native
17 American nations geographically and culturally affiliated with
18 Illinois.

19 (c) If such human remains are not Native American or their
20 ethnic identity cannot be ascertained, as determined by the
21 State Burial Law Coordinator, the human remains shall be dealt
22 with in accordance with provisions established by the
23 appropriate authority. If such burials are Native American, as
24 determined by the Illinois State Archaeologist, efforts shall
25 be made by the Illinois State Archaeologist, in consultation
26 with the Native American tribe having a probable historical

1 and cultural heritage with the burial site, to ascertain their
2 tribal identity. If their probable tribal identity can be
3 determined and the remains have been removed from their
4 original context, such remains shall be turned over to
5 contemporary tribal leaders for disposition.

6 (d) If tribal identity cannot be determined, the Native
7 American remains must be dealt with in accordance with
8 provisions established by the State Burial Coordinator
9 consistent with the requirements of the Native American Graves
10 Protection and Repatriation Act of 1990 if they are from
11 public land. If removed Native American remains are from
12 private land they shall be dealt with in accordance with
13 provisions established by the State Burial Law Coordinator. If
14 it is deemed desirable by the Illinois State Archaeologist,
15 removed remains shall be studied in a timely and respectful
16 manner by a qualified professional archaeologist or a
17 qualified physical anthropologist before being delivered to
18 tribal leaders or before being reburied.

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

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

21 Sec. 14. Human remains in unregistered graves. All Native
22 American human ~~skeletal~~ remains and grave artifacts in
23 unregistered graves are the property of the Native American
24 nations geographically and culturally affiliated with
25 Illinois. The Department of Natural Resources and the Illinois

1 State Museum shall have the right to maintain and care for, in
2 compliance with the Native American Graves Protection and
3 Repatriation Act of 1990, Native American property until
4 appropriate and tribal consultation has been completed and
5 tribes have made the final decision for repatriation or
6 reinterment of the property. The Illinois State Museum shall
7 maintain records, conduct tribal consultation, provide reports
8 to tribal nations, and lead repatriation and reinterment
9 efforts with tribal approval ~~held in trust for the people of~~
10 ~~Illinois by the State and are under the jurisdiction of the~~
11 ~~Department of Natural Resources. All materials collected under~~
12 ~~this Act shall be maintained, with dignity and respect, for~~
13 ~~the people of the State under the care of the Illinois State~~
14 ~~Museum.~~

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

16 (20 ILCS 3440/15) (from Ch. 127, par. 2675)

17 Sec. 15. Rules. The Department of Natural Resources, in
18 consultation with federally recognized Native American nations
19 shall adopt ~~promulgate~~ such rules ~~regulations~~ as may be
20 necessary to carry out the purposes of this Act.

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

22 (20 ILCS 3440/17 new)

23 Sec. 17. Creation of cemetery. The Director of Natural
24 Resources, in cooperation with the Illinois State Museum and

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

10 (20 ILCS 3440/2 rep.)

11 (20 ILCS 3440/4.75 rep.)

12 (20 ILCS 3440/11 rep.)

13 Section 15. The Human Skeletal Remains Protection Act is
14 amended by repealing Sections 2, 4.75, and 11.

15 Section 20. The State Finance Act is amended by adding
16 Section 5.990 as follows:

17 (30 ILCS 105/5.990 new)

18 Sec. 5.990. The Tribal Repatriation Fund.