



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4934

Introduced 2/7/2024, by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

20 ILCS 3440/1	from Ch. 127, par. 2661
20 ILCS 3440/3.5	
20 ILCS 3440/13	from Ch. 127, par. 2673

Amends the Human Remains Protection Act. Provides that if remains that are over 100 years old are identified as veteran's remains, the Department of Natural Resources shall permit a veterans' organization to place a marker to designate that grave, if not already designated, as the grave of a veteran. Provides that if the grave is damaged or destroyed, the veterans' organization may fix, add, install, or refurbish the grave or replace a broken or damaged headstone. Before the veterans' organization may repair, refurbish, place a marker, or otherwise repair a broken headstone on the grave, the veterans' organization must make a good faith effort to contact the next of kin of the person whose grave has been identified and receive no response from the next of kin within a reasonable period of time as determined by the Department, by rule. Provides that the Department shall, by rule, determine what relationship to a person whose grave has been identified as a veteran's grave must be contacted by the veterans' organization.

LRB103 35553 RLC 65625 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 Remains Protection Act is amended by
5 changing Sections 1, 3.5, and 13 as follows:

6 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

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

8 "Department" means the Department of Natural Resources.

9 "Disturb" or "disturbance" includes excavating, removing,
10 exposing, probing, defacing, mutilating, destroying,
11 molesting, or desecrating in any way human remains,
12 unregistered graves, grave artifacts, and grave markers.

13 "Encounter" means to come upon human remains, grave
14 artifacts, grave markers, or unregistered graves at a location
15 where such viewing was not expected or anticipated.

16 "Grave artifacts" means any item of human manufacture or
17 use that is associated with the human remains in an
18 unregistered grave.

19 "Grave markers" means any tomb, monument, stone, ornament,
20 mound, or other item of human manufacture that is associated
21 with an unregistered grave.

22 "Human remains" include the bones and decomposed fleshy
23 parts of a deceased human body.

1 "Person" means any natural individual, firm, trust,
2 estate, partnership, association, joint stock company, joint
3 venture, limited-liability company, corporation or a receiver,
4 trustee, guardian or other representatives appointed by order
5 of any court, the Federal and State governments, including
6 State Universities created by statute or any city, town,
7 county or other political subdivision of this State.

8 "Tribal consultation" means a form of communication
9 centered in trust, respect and shared responsibility that
10 upholds Tribal sovereignty. It is a free and open process
11 where the exchange of information and opinions are shared
12 among the participating parties.

13 "Undertaking" means any project, activity, or construction
14 that can result in changes to, disturbance of, moving, or
15 destruction of human remains, grave artifacts, grave markers
16 or unregistered graves.

17 "Unregistered grave" means any grave or location where a
18 human body has been buried or deposited; is over 100 years old;
19 and is not in a cemetery registered with or licensed by the
20 State Comptroller under the Cemetery Care Act or under the
21 authority of the Illinois Department of Financial and
22 Professional Regulation pursuant to the Cemetery Oversight
23 Act, whichever is applicable.

24 "Veteran" means a person who has served as a member of the
25 armed forces of the United States, the Illinois National
26 Guard, or a reserve component of the armed forces of the United

1 States and has been buried in a grave that is more than 100
2 years old.

3 "Veterans' organization" means an organization comprised
4 of members of which substantially all are individuals who are
5 veterans or spouses, widows, or widowers of veterans, the
6 primary purpose of which is to promote the welfare of its
7 members and to provide assistance to the general public in
8 such a way as to confer a public benefit.

9 (Source: P.A. 103-446, eff. 8-4-23.)

10 (20 ILCS 3440/3.5)

11 Sec. 3.5. Encounter procedure. Except as otherwise
12 provided in subsection (e) of Section 13, when ~~when~~ an
13 undertaking encounters human remains, unregistered graves,
14 grave markers, or grave artifacts, all activities shall cease
15 within a 100-foot radius of the encounter. The encountering
16 party shall notify the coroner and the Department as required
17 in Section 3. If the coroner determines that the human remains
18 are not over 100 years old, no further action is required under
19 this Act. If the coroner does determine that the human remains
20 are over 100 years old, the Department shall review the
21 undertaking and may issue a permit pursuant to Section 13.
22 During its review, if it is determined by the Department that
23 the human remains, unregistered grave, grave marker, or grave
24 artifact are Native American in origin, the Department shall
25 conduct tribal consultation with the tribal nations that

1 identify as having or having had a historical, cultural, or
2 geographic affiliation on the land where the undertaking will
3 occur.

4 (Source: P.A. 103-446, eff. 8-4-23.)

5 (20 ILCS 3440/13) (from Ch. 127, par. 2673)

6 Sec. 13. Notification.

7 (a) If an undertaking will occur on property that the
8 property owner has been notified in writing by the Department
9 that the land is likely to contain human remains, unregistered
10 graves, grave markers, or grave artifacts, a permit shall be
11 obtained by the landowner from the Department.

12 (b) If human remains, unregistered graves, grave markers,
13 or grave artifacts that were unknown and were encountered by
14 any person, a permit shall be obtained from the Department
15 before any work on the undertaking may continue.

16 (c) The Department of Natural Resources shall adopt
17 administrative rules whereby permits shall be issued for the
18 avoidance, disturbance, or removal of human remains,
19 unregistered graves, grave markers, or grave artifacts, or a
20 combination of those activities. The Department may adopt
21 emergency rules in accordance with Sections 5-45 and 5-45.47
22 ~~5-45.35~~ of the Illinois Administrative Procedure Act. The
23 adoption of emergency rules authorized by Sections 5-45 and
24 5-45.47 ~~5-45.35~~ of the Illinois Administrative Procedure Act
25 and this paragraph is deemed to be necessary for the public

1 interest, safety, and welfare.

2 (d) Each permit shall specify all terms and conditions
3 under which the avoidance, removal, or disturbance of human
4 remains, grave artifacts, grave markers, or unregistered
5 graves shall be carried out. All costs accrued in the removal
6 of the aforementioned materials shall be borne by the permit
7 applicant. Within 60 days of the completion of the
8 undertaking, the permit holder shall submit a report, on a
9 form provided by the Department, of the results to the
10 Department.

11 (e) If remains that are over 100 years old are identified
12 as a veteran's remains, the Department of Natural Resources
13 shall permit a veterans' organization to place a marker to
14 designate that grave, if not already designated, as the grave
15 of a veteran. If the grave is damaged or destroyed, the
16 veterans' organization may fix, add, install, or refurbish the
17 grave or replace a broken or damaged headstone. Before the
18 veterans' organization may repair, refurbish, place a marker,
19 or otherwise repair a broken headstone on the grave, the
20 veterans' organization must make a good faith effort to
21 contact the next of kin of the person whose grave has been
22 identified and receive no response from the next of kin within
23 a reasonable period of time as determined by the Department,
24 by rule. The Department shall, by rule, determine what
25 relationship to a person whose grave has been identified as a
26 veteran's grave must be contacted by the veterans'

1 organization.

2 (Source: P.A. 103-446, eff. 8-4-23; revised 10-5-23.)