



1997 ASSEMBLY BILL 506

September 9, 1997 - Introduced by Representative LORGE, cosponsored by Senator WELCH. Referred to Committee on Consumer Affairs.

1 **AN ACT to amend** 69.18 (3) (f), 69.18 (4) (bm), 157.112 (title), 157.70 (2r) and
2 157.70 (3) (a); and **to create** 157.113 of the statutes; **relating to:** the reburial
3 of unknown human remains erroneously removed from a burial site by a
4 cemetery authority.

Analysis by the Legislative Reference Bureau

Under current law, a person may not remove human remains from a burial site and rebury the remains unless a coroner or medical examiner first issues an authorization to the person. However, this authorization is not required for a cemetery authority that reburies human remains in order to correct an error that the cemetery authority made when it originally buried the remains. In addition, a cemetery authority that reburies human remains to correct an error is immune from any civil liability for the error, unless the error was the result of reckless, wanton or intentional misconduct.

Also under current law, with certain exceptions, if a person knows or believes that a burial site is being disturbed or may be disturbed, he or she must immediately notify the director of the state historical society (director), who has certain duties under the burial sites preservation law of this state. In addition, with certain exceptions, a person may not disturb a burial site unless he or she first obtains permission from the director. A cemetery authority that reburies human remains to correct an error that the cemetery authority made when it originally buried the remains is not required to notify the director or obtain the director's permission with respect to any disturbance of the burial site.

ASSEMBLY BILL 506

Current law also requires that any person in charge of a burial site, including a cemetery authority, must keep a written record that identifies each deceased person who is buried at the site, the date of burial and the funeral director or other person in charge of the funeral.

This bill requires that, if a cemetery authority erroneously removes the human remains of an unknown deceased person from a grave and there is no record of the deceased person in the cemetery authority's written record, the cemetery authority must rebury the remains as close as possible to the place where the remains were removed. In addition, all of the following apply:

1. The cemetery authority must include in its written record the date and place of the reburial, as well as any other information about the human remains that the cemetery authority is able to ascertain.

2. The cemetery authority is not required to obtain an authorization for the reburial from a coroner or medical examiner.

3. The cemetery authority is not required to notify the director about disturbing the burial site of the unknown deceased person or to obtain the director's permission with respect to any disturbance of the burial site that is associated with the reburial. However, no later than 30 days after the reburial, the cemetery authority must notify the director about the reburial and provide the director with a copy of the information about the reburial that the cemetery authority includes in its written record.

4. The cemetery authority is immune from any civil liability for the erroneous removal of the unknown human remains if the removal was not the result of reckless, wanton or intentional conduct.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 69.18 (3) (f) of the statutes is amended to read:

2 69.18 (3) (f) Every person in charge of a place in which interment or other
3 disposition of corpses occurs shall maintain a written record of every corpse interred
4 there. ~~The Except as provided in s. 157.113 (1), the~~ record shall include the name of
5 the decedent, the place of death, the date of burial and the name and address of the
6 funeral director or other person in charge of the funeral.

7 **SECTION 2.** 69.18 (4) (bm) of the statutes is amended to read:

8 69.18 (4) (bm) A cemetery authority may disinter and reinter buried human
9 remains as provided under s. ss. 157.112 and 157.113 without first obtaining an
10 authorization under par. (a).

ASSEMBLY BILL 506

1 **SECTION 3.** 157.112 (title) of the statutes is amended to read:

2 **157.112 (title) Reburial of human remains by a cemetery authority to**
3 **correct an error.**

4 **SECTION 4.** 157.113 of the statutes is created to read:

5 **157.113 Reburial of unknown human remains. (1)** If a cemetery authority
6 erroneously disentombs, disinurns or disinters, from a grave that is located in a
7 cemetery owned or operated by the cemetery authority, unknown human remains for
8 which there is no record of burial under s. 69.18 (3) (f), the cemetery authority shall
9 reentomb, reinurn or reinter the human remains as close as possible to the place from
10 which the human remains were disentombed, disinurned or disinterred and shall
11 make a written record of the reburial under s. 69.18 (3) (f) that includes the date and
12 place of reburial and any other information concerning the human remains that the
13 cemetery authority is able to ascertain. No later than 30 days after the reburial, the
14 cemetery authority shall notify the director of the state historical society about the
15 reburial and shall provide a copy of the written record made under this subsection
16 to the director.

17 **(2)** A cemetery authority is immune from civil liability for any erroneous
18 disentombment, disinurnment or disinterment of human remains under the
19 circumstances specified in sub. (1) if the cemetery authority reentombs, reinurns or
20 reinters the human remains as required under sub. (1). The immunity under this
21 subsection does not apply if the erroneous disentombment, disinurnment or
22 disinterment was the result of reckless, wanton or intentional misconduct.

23 **SECTION 5.** 157.70 (2r) of the statutes is amended to read:

24 **157.70 (2r) SITE DISTURBANCE PROHIBITED.** Except as provided under subs. (4)
25 and (5) and ss. 157.111 ~~and~~, 157.112 and 157.113, no person may intentionally cause

ASSEMBLY BILL 506

1 or permit the disturbance of a burial site or cataloged land contiguous to a cataloged
2 burial site. This subsection does not prohibit normal agricultural or silvicultural
3 practices which do not disturb the human remains in a burial site or the surface
4 characteristics of a burial site.

5 **SECTION 6.** 157.70 (3) (a) of the statutes is amended to read:

6 157.70 (3) (a) Except as provided under ~~s.~~ ss. 157.113 (1) and 979.01, a person
7 shall immediately notify the director if the person knows or has reasonable grounds
8 to believe that a burial site or the cataloged land contiguous to a cataloged burial site
9 is being disturbed or may be disturbed contrary to the requirements of subs. (4) and
10 (5).

11 **SECTION 7. Initial applicability.**

12 (1) This act first applies to reburials of human remains that occur on the
13 effective date of this act, regardless of the date of the original burial of the human
14 remains.

15 (END)