

State of Wisconsin



1995 Assembly Bill 895

Date of enactment: **May 23, 1996**
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1995 WISCONSIN ACT 357

AN ACT *to renumber* 69.18 (4); *to amend* 157.70 (2r); and *to create* 69.18 (4) (bm) and 157.112 of the statutes; relating to: the reburial by a cemetery authority of human remains buried in a cemetery owned or operated by the cemetery authority.

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

SECTION 1. 69.18 (4) of the statutes is renumbered 69.18 (4) (a).

SECTION 2. 69.18 (4) (bm) of the statutes is created to read:

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

SECTION 3. 157.112 of the statutes is created to read:

157.112 Reburial of human remains by a cemetery authority. (1) In this section, "rebury" means to disintomb, disinter or disinter human remains that are buried in a cemetery and reinter, reinurn or reinter the human remains in another grave, mausoleum space or other place used or intended to be used for the burial of human remains that is located in the same cemetery.

(2) A cemetery authority may rebury human remains that are buried in a cemetery owned or operated by the cemetery authority for the purpose of correcting an error made by the cemetery authority in the burial of those human remains.

(3) A cemetery authority may rebury human remains under sub. (2) without first obtaining an authorization un-

der s. 69.18 (4), but the cemetery authority shall do all of the following:

(a) No later than 30 days after reburying human remains under sub. (2), provide written notice of the reburial to the coroner or medical examiner of the county in which the reburial occurs.

(b) Notify one of the following by registered mail of the reburial:

1. The decedent's spouse.

2. If the person specified in subd. 1. is not available, an adult son or daughter of the decedent.

3. If the persons specified in subds. 1. and 2. are not available, either parent of the decedent.

4. If the persons specified in subds. 1., 2. and 3. are not available, an adult brother or sister of the decedent.

(3m) If none of the persons specified in sub. (3) (b) 1. to 4. are available for notification under sub. (3) (b), the cemetery authority shall maintain a record of its attempt to provide notification under sub. (3) (b) for not less than 10 years from the date of the reburial of the human remains under sub. (2).

(4) (a) A cemetery authority is immune from civil liability for an error that is corrected by a reburial of human remains under sub. (2).

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) The immunity under par. (a) does not apply if the error was the result of reckless, wanton or intentional misconduct.

SECTION 4. 157.70 (2r) of the statutes is amended to read:

157.70 (2r) **SITE DISTURBANCE PROHIBITED.** Except as provided under subs. (4) and (5) and ~~s. ss. 157.111~~ and 157.112, no person may intentionally cause or permit the disturbance of a burial site or cataloged land contiguous to a cataloged burial site. This subsection does not pro-

hibit normal agricultural or silvicultural practices which do not disturb the human remains in a burial site or the surface characteristics of a burial site.

SECTION 5. Initial applicability.

(1) This act first applies to reburials of human remains under section 157.112 (2) of the statutes, as created by this act, that occur on the effective date of this act, regardless of the date of the original burial of the human remains.

