

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## HOUSE ENROLLED ACT No. 1184

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AN ACT to amend the Indiana Code concerning burial grounds and cemeteries.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 14-8-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.5. "Archeological plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(b).**

SECTION 2. IC 14-8-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 30. "Burial ground", for purposes of ~~IC 14-21-1~~ **IC 14-21**, has the meaning set forth in IC 14-21-1-3.

SECTION 3. IC 14-8-2-37.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 37.5. "Cemetery", for purposes of IC 14-21, has the meaning set forth in IC 23-14-33-7.**

SECTION 4. IC 14-8-2-68.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 68.5. "Development plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(c).**

SECTION 5. IC 14-8-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 127. "Human remains", for purposes of ~~IC 14-21-1~~ **IC 14-21**, has the meaning set forth in IC 14-21-1-7.

SECTION 6. IC 14-8-2-219 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 219. "Property" has the

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following meaning:

- (1) For purposes of IC 14-12-2 and IC 14-21-3, the meaning set forth in IC 14-12-2-6.
- (2) For purposes of IC 14-18-8, the meaning set forth in IC 14-18-8-1.

SECTION 7. IC 14-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) **As used in this chapter, "plan" refers to:**

- (1) **an archeological plan, as described in subsection (b); or**
- (2) **a development plan, as described in subsection (c).**

(b) As used in this chapter, "~~plan~~" "**archeological plan**" means an ~~archeological~~ a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

(c) **As used in this chapter, "development plan" means a plan for the erection, alteration, or repair of any structure.**

SECTION 8. IC 14-21-1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:**

- (1) **The Indiana Historical Society established under IC 23-6-3.**
- (2) **A historical society as defined in IC 20-5-17.5-1(a).**
- (3) **The Historic Landmarks Foundation of Indiana.**
- (4) **A professional archeologist or historian associated with a college or university.**
- (5) **A township trustee.**
- (6) **Any other entity that the division selects.**

(b) **In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:**

- (1) **to carry out subsection (a); and**
- (2) **according to the terms of the gift or grant.**

(c) **At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).**



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(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

SECTION 9. IC 14-21-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

- (1) Promotes the scientific investigation and conservation of past cultures.
- (2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

- (1) The rights and interests of landowners.
- (2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.

SECTION 10. IC 14-21-1-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26.5. (a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:

- (1) A public utility (as defined in IC 8-1-2-1(a)).
- (2) A corporation organized under IC 8-1-13.
- (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).
- (4) A surface coal mining and reclamation operation permitted under IC 14-34.

Except as provided in this subsection, subsection (b), and



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subsection (c), a person may not disturb the ground within one hundred (100) feet of a recorded burial ground or cemetery for the purpose of erecting, altering, or repairing any structure without having a development plan approved by the department under section 25 of this chapter or in violation of a development plan approved by the department under section 25 of this chapter. The department must review the development plan not later than sixty (60) days after the development plan is submitted.

(b) A development plan:

- (1) must be approved if a person intends to construct a new structure or alter or repair an existing structure that would significantly impact the burial ground or cemetery; and
- (2) is not required if a person intends to erect, alter, or repair an existing structure for an incidental or existing use that would not impact the burial ground or cemetery.

(c) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a recorded burial ground or cemetery must be approved as follows:

- (1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.
- (2) A development plan of a governmental entity other than:
  - (A) a municipality; or
  - (B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

- (3) A development plan of the state requires the approval of the department.

(d) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or



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grave markers while committing the offense.

SECTION 11. IC 14-21-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

**Chapter 3. Recording Interests in Property Containing a Burial Ground or Cemetery**

**Sec. 1. (a)** Before a person may record any interest in property on which a burial ground or cemetery is known to be located, the owner of the property must record the deed to the property in the recorder's office of the county where the property is located. The bottom portion of the deed must state in capital letters in bold type that the deed pertains to property on which a burial ground or cemetery is known to be located.

**(b)** The county auditor shall send a copy of the deed to:

- (1)** the department; and
- (2)** the local cemetery board, or if no local cemetery board exists, to the county commissioners;

not later than thirty (30) days after the deed is recorded under subsection (a).

**Sec. 2.** The recording that this chapter requires is in addition to any recording that may be required by IC 23-14-34-1.

**Sec. 3.** Beginning January 1, 2003, a person who violates section 1 of this chapter commits a Class C infraction.

**Sec. 4.** Nothing in this chapter may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

**Sec. 5.** This chapter does not apply to the following:

- (1)** A public utility (as defined in IC 8-1-2-1(a)).
- (2)** A corporation organized under IC 8-1-13.
- (3)** A municipally owned utility (as defined in IC 8-1-2-1(h)).
- (4)** Property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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