

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1940

DATE: 3-21-02

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14 STATE OF MAINE
16 HOUSE OF REPRESENTATIVES
18 120TH LEGISLATURE
20 SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1443, L.D. 1940, Bill, "An
Act Regarding the Repatriation of Native American Remains"

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Amend the bill by striking out everything after the enacting
clause and before the summary and inserting in its place the
following:

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'Sec. 1. 22 MRSA §2842-B, as enacted by PL 1993, c. 738, Pt.
C, §5, is repealed and the following enacted in its place:

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§2842-B. Indian human remains

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1. Transfer of remains. Except as provided in subsections
2 and 3, a person or entity who possesses any human remains
identified as Indian human remains shall transfer the remains to
the intertribal repatriation organization that is appointed by
the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of
Maliseet Indians and Aroostook Band of Micmacs for reburial. The
intertribal repatriation organization shall make reasonable
inquiry to locate the next of kin of the deceased. If next of kin
are located, the intertribal repatriation organization shall
transfer the remains to the next of kin.

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2. Medical Examiner cases. In cases within the
jurisdiction of the Medical Examiner Act, the Chief Medical
Examiner has authority over Indian human remains until the
remains are no longer required for legal purposes. At that time,
the Chief Medical Examiner shall make reasonable inquiry to
locate the next of kin of the deceased. If next of kin are
located, the Chief Medical Examiner shall release the remains to
the next of kin of the deceased. If no next of kin are located,

COMMITTEE AMENDMENT

the remains must be released to the intertribal repatriation organization for reburial.

3. Native American Graves Protection and Repatriation Act. Subsection 1 does not apply to any human remains or any person or entity subject to the Native American Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

4. Memorandum of understanding. The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protection and Repatriation Act.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Maine State Museum and the Maine Historic Preservation Commission will incur some minor additional costs to enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protective and Repatriation Act. These costs can be absorbed within each agency's existing budgeted resources.'

SUMMARY

This amendment replaces the bill. It provides that a person who possesses human remains that are identified as Indian human remains must transfer the remains to the intertribal repatriation organization that is appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs. The intertribal repatriation organization must make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the remains must be transferred to the next of kin.

This amendment clarifies that if the Indian human remains are subject to the Medical Examiner Act, the Chief Medical Examiner may retain the remains until they are no longer necessary for legal purposes. The Chief Medical Examiner will then make reasonable inquiry to locate the next of kin. If next of kin are located, the Chief Medical Examiner shall release the remains to the deceased's next of kin. If no next of kin are located, the Chief Medical Examiner shall transfer the remains to the intertribal repatriation organization for reburial.

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1443, L.D. 1940

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This requirement does not apply to human remains or persons and entities covered by the federal Native American Graves Protection and Repatriation Act, NAGPRA. The federal law covers federal agencies and state and local agencies, including institutions of higher learning, that receive federal funds and have possession of or control over Native American human remains and certain cultural items. The federal law also covers Native American human remains and cultural items that are found on federal or tribal lands. The federal law requires the return of remains and funerary objects to a known lineal descendant or the culturally affiliated tribe or tribes.

This amendment also addresses human remains that are subject to NAGPRA that fall into the definition of Medical Examiner cases. The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the procedures the Chief Medical Examiner must follow when in possession of Indian human remains that are subject to NAGPRA. NAGPRA includes a limited period of study prior to repatriation; the memorandum of understanding will address that period for human remains that are subject to NAGPRA and are Medical Examiner cases.

This amendment also adds a fiscal note to the bill.

COMMITTEE AMENDMENT