

O.C.G.A. § 44-12-262

GEORGIA CODE
Copyright 2007 by The State of Georgia
All rights reserved.

*** Current through the 2007 Regular Session ***

TITLE 44. PROPERTY
CHAPTER 12. RIGHTS IN PERSONALTY
ARTICLE 7. PROTECTION OF AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS
PART 1. AMERICAN INDIAN HUMAN REMAINS AND BURIAL OBJECTS HELD BY MUSEUMS

O.C.G.A. § 44-12-262 (2007)

§ 44-12-262. Return of human remains and burial objects upon request of known lineal descendant or tribe; immunity of museum for returns made in good faith; private collections of artifacts not containing burial objects

(a) Upon the request of a known lineal descendant of the particular American Indian or, if a cultural affiliation is established between a particular American Indian tribe and particular human remains or burial objects, the request of the tribe, and pursuant to subsections (d) and (e) of this Code section, the museum shall expeditiously return such remains and objects. However, no human remains or burial objects shall be repatriated outside of the State of Georgia unless claimed by a known lineal descendant of the deceased person, as proved by clear and convincing evidence.

(b) The return of human remains and burial objects covered by this part shall be in consultation with the requesting descendant or tribe to determine the place and manner of delivery of such items.

(c) Where cultural affiliation between an American Indian tribe and human remains or burial objects has not been established in an inventory prepared pursuant to Code Section 44-12-261, such American Indian tribe can establish cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archeological, anthropological, linguistic, folkloric, oral tradition, historical, or other relevant information or expert opinion.

(d) If either a lineal descendant of the deceased person or an American Indian tribe culturally affiliated with human remains or burial objects requests the return of such American Indian human remains or burial objects, the museum shall expeditiously return such items unless such items are indispensable for the completion of a specific scientific study, the outcome of which would be of major benefit to the State of Georgia, as determined by the Secretary of State and the council. Such items shall be returned by no later than 120 days after the date on which scientific study is completed. If the Secretary of State and the council cannot agree on the benefit of the scientific study, then they shall each appoint one representative to serve on a committee created and convened for the sole purpose of resolving the issue. The Governor shall appoint a person to chair the committee. Such person may not be an employee of the Secretary of State or a member of the council. The chairperson may vote to break a tie.

(e) When there are multiple requests for repatriation of any American Indian human remains or burial objects and after complying with the requirements of this part the

museum cannot clearly determine which requesting party is the most appropriate claimant, the museum may retain such item until the requesting parties agree upon its disposition or the dispute is resolved pursuant to the provisions of this article or in a court of competent jurisdiction.

(f) Any museum which repatriates any American Indian human remains or burial objects in good faith pursuant to this part shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty or public trust.

(g) Nothing in this Code section shall require private citizens to surrender artifact collections that do not contain burial objects.

HISTORY: Code 1981, § 44-12-262, enacted by Ga. L. 1992, p. 1790, § 6.