

2000 OVERVIEW OF INDIANA CEMETERY LAWS

Indiana Code 23-14 (General Cemetery Statutes)

<http://www.ai.org/legislative/ic/code/title23/ar14>

Chapters 1 to 30 of IC 23-14 have been repealed.

Chapter 31. Cremation

Chapter 32. Curfews

Chapter 33. Application and Definitions of Cemetery Law

Chapter 34. Mandatory Recording of Survey and Plat

Chapter 35. Requirements Applying to Cemetery Plots

Chapter 36. Commencement of the Sale of Burial Rights

Chapter 37. Unlawful Inducements in the Sale of Burial Rights

Chapter 38. Construction of Mausoleums and Vaults

Chapter 39. Burial Rights in Multi-space Plots

Chapter 40. Joint Burial Rights in Multi-space Plots

Chapter 41. Family Burial Lots

Chapter 42. Burial Rights by Designation, Bequest, or Descent, and Rights of Co-owners

Chapter 43. Assessments to Improve Cemetery Roads

Chapter 44. Prohibition on Road and Utility Construction in Cemeteries

Chapter 45. Construction of Railroads on Cemetery Property Prohibited

Chapter 46. Cemetery Rules and Regulations and Exclusive Rights

Chapter 47. Use, Sale, and Installation of Monuments and Other Commodities

Chapter 48. Cemetery Perpetual Care Fund

Chapter 49. Cemetery Escrow or Trust Accounts

Chapter 50. The Nature of Cemetery Funds

Chapter 51. The Investment and Use of Cemetery Funds

Chapter 52. Conditions Applying to the Sale of a Cemetery

Chapter 53. Bequests for Care

Chapter 54. Disposition of Dead Human Bodies

Chapter 55. Authorization for Interment, Entombment, or Inurnment

Chapter 56. Record Keeping

Chapter 57. Disinterment, Disentombment, and Disinurnment

Chapter 58. Abandonment and Reburial

Chapter 59. Potential Liability of Cemetery Owner

Chapter 60. Legalization of Defectively Formed Cemetery Associations and Corporations

Chapter 61. Conflicts of Interests by Cemetery Employees

Chapter 62. Conveyance of County Cemeteries to Private Corporations

Chapter 63. Conveyance of Township Cemeteries to Private Corporations

Chapter 64. Conveyance of Cemetery Association Land to Townships

Chapter 65. City and Town Cemeteries

Chapter 66. Care of Cemeteries by Third Class Cities and Towns

Chapter 67. Care of Cemeteries by Counties

Chapter 68. Care of Cemeteries by Townships

Chapter 69. Establishment of Public Cemeteries by Townships

Chapter 70. Trusts for Cemetery Associations

Chapter 71. Union Chapel Cemetery Association

Chapter 72. Annexation of Unincorporated Cemetery

Chapter 73. Grave Markers of Deceased Soldiers

Chapter 74. Cemetery Fences and Upkeep

Chapter 75. Eminent Domain Acquisition of Cemetery Land

Chapter 76. Application of Corporations Laws to Cemetery Associations

Indiana Code 23-14-67 (CARE OF CEMETERIES BY COUNTIES)

<http://www.ai.org/legislative/ic/code/title23/ar14/ch67.html>

Sec. 1. This chapter applies to cemeteries that:

- (1) are without funds or sources of funds for reasonable maintenance;
- (2) have suffered neglect and deterioration;
- (3) may be the burial grounds for Indiana pioneer leaders or veterans of an American war, including the Revolutionary War; and
- (4) were established before 1850.

Sec. 2. (a) The board of commissioners of a county may appoint a county cemetery commission consisting of five (5) residents of the county.

(b) The members of a county cemetery commission shall be appointed for a term of five (5) years. The board of county commissioners shall stagger the terms of the members to permit the appointment or a reappointment of one (1) commission member per year.

Sec. 3. A county cemetery commission may request the levy of an annual tax for the purpose of restoring and maintaining one (1) or more cemeteries described in section 1 of this chapter that are located in the county. The tax may not exceed fifty cents (\$0.50) on each one hundred dollars (\$100) of assessed valuation of property in the county.

Sec. 3.5. (a) Before March 1 of each year, a county cemetery commission shall file an annual report with the Indiana historical bureau established by IC 4-23-7-3.

(b) An annual report filed under this section must include information on the following:

- (1) The budget of the county cemetery commission for the preceding calendar year.
- (2) Expenditures made by the county cemetery commission during the preceding calendar year.
- (3) Activities of the county cemetery commission during the preceding calendar year.
- (4) Plans of the county cemetery commission for the calendar year during which the report is filed.

(c) The Indiana historical bureau shall make reports filed under this section available for public inspection under IC 5-14-3.

Sec. 4. A county cemetery commission established under this chapter shall:

- (1) present an annual plan and budget; and
- (2) make an annual report;

to the board of county commissioners and the county council for approval.

IC 23-14-68 (CARE OF CEMETERIES BY TOWNSHIPS)

<http://www.ai.org/legislative/ic/code/title23/ar14/ch68.html>

Sec. 1. (a) This chapter applies to each cemetery that:

- (1) is without funds for maintenance;
- (2) was in existence on February 28, 1939; and
- (3) is operated by a nonprofit organization or is not managed by any viable organization.

(b) This chapter does not apply to a cemetery located on land on which property taxes are assessed and paid under IC 6-1.1-4.

Sec. 2. The trustee of each township shall locate and maintain all the cemeteries described in section 1(a) of this chapter that are within the township. However, a cemetery association claiming assistance under this chapter shall furnish a verified statement of assets and liabilities to the township trustee.

Sec. 3. For the purposes of this chapter, the maintenance of a cemetery includes the following:

- (1) Resetting and straightening all monuments.
- (2) Leveling and seeding the ground.
- (3) Constructing fences where there are none and repairing existing fences.
- (4) Destroying and cleaning up detrimental plants (as defined in IC 15-3-4-1), noxious weeds, and rank vegetation.

Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other township appropriations.

(b) The township may levy a township cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund may be used.

Sec. 5. A township trustee who fails to perform the trustee's duties under this chapter commits a Class C infraction.

*Pursuant to IC 35-50-3-4, "A person who commits a **Class C misdemeanor** shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars (\$500)."*

IC 14-21-1 (DNR, HISTORIC PRESERVATION AND ARCHEOLOGY)

<http://www.ai.org/legislative/ic/code/title14/ar21/ch1.html>

Sec. 26. (a) A person who disturbs the ground for the purpose of discovering artifacts or burial objects must do so in accordance with a plan approved by the department under section 25 of this chapter or under IC 14-3-3.4-14 (before its repeal).

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

Sec. 27. (a) A person who disturbs buried human remains shall do the following:

(1) Notify the department within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-56.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

Sec. 28. A person who, with the intent to disturb ground for the purpose of discovering or removing artifacts, burial objects, grave markers, or human remains, disturbs buried human remains or grave markers either:

(1) without a plan approved by the department under:

(A) section 25 of this chapter; or

(B) IC 14-3-3.4-14 (before its repeal); or

(2) in violation of such a plan;

commits a Class D felony.

Sec. 29. (a) A person who discovers an artifact or burial object while disturbing the ground for a purpose other than the discovery of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground.

(2) Notify the department within two (2) business days after the time of the disturbance.

(b) After notification under subsection (a) the department may do any of the following:

(1) Authorize the person to continue the ground disturbing activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after thirty (30) days from the date that the department receives notice.

Sec. 30. The department shall actively encourage all groups of amateur archeologists to establish and maintain a code of ethics as a minimum guide for the conduct of searches for evidence from the life and culture of past ages.

Sec. 31. (a) The commission shall adopt rules under IC 4-22-2 to implement this chapter.

(b) When adopting rules under this chapter the commission shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) Applicable laws, standards, and guidelines for the conduct of archeology and codes of ethics for participation in archeology.

1999 House Bill 1522 – Now Public Law 100 (effective July 1, 1999):

http://www.rootsweb.com/~inpcrp/HE1522_1.pdf

Summary of Public Law 100 – “Cemetery preservation”

- Provides various measures to preserve cemeteries.
- Requires a person who lawfully removes a grave memorial to file with the county recorder certain information pertaining to the grave memorial.

- Provides that a person may not buy or sell certain items that have been removed from a cemetery *{specifically includes grave memorials, grave artifacts, grave ornamentation, cemetery enclosures or other commemorative item}*.
- Provides that a person who disturbs the earth for agricultural purposes is not exempt from committing cemetery mischief.
- Provides that cemetery mischief includes disturbing, defacing, or damaging certain cemetery items.
- Prohibits a person from recklessly, knowingly, or intentionally damaging personal property contained in a structure or located at a cemetery or a facility used for memorializing the dead.
- Provides that cemetery mischief is a **Class A misdemeanor**.
- Enhances the penalty for the offense to a **Class D felony** if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).
- Eliminates certain penalties for violations of cemetery preservation laws. In certain circumstances, exempts cemetery owners and owner of grave memorials from the cemetery preservation law *{meaning owners of modern-day, active cemeteries}*.
- Provides that county recorders are not obligated to acquire special equipment to record grave memorial information and provides standardized forms for filing this information.
*{Pursuant to IC 35-50-3-2, "A person who commits a **Class A misdemeanor** shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000)." A **Class D felony** carries a minimum sentence of one (1) year, per IC 35-50-2-1.}*

2000 House Bill 1184 – Now Public Law 46 (effective July 1, 2000):

<http://www.state.in.us/legislative/bills/2000/PDF/HE/HE1184.1.pdf>

Summary of Public Law 46 – Cemeteries and burial grounds –

- Provides that the department of natural resources (DNR) alone or with the assistance of certain entities may survey and register all cemeteries and burial grounds in Indiana in a registry that the DNR establishes and maintains.
- Allows the DNR to accept donations and establish a trust fund for the cemetery survey.
- Requires a person who wishes to disturb the ground within 100 feet of a recorded cemetery or burial ground for erecting, altering, or repairing a structure to submit a development plan to the DNR for approval according to standards established by rule.
- Provides a separate approval procedure for plans of governmental entities.
- Requires a person who records any interest in property where a burial ground or cemetery is known to be located to also record a survey showing the approximate location of all human remains.
- Requires a person who wishes to transfer property containing a burial ground or cemetery to deliver a disclosure document to the transferee and establishes the form of the disclosure document which the transferor must record.
- Allows a person having a right of interment, entombment, or inurnment in a family burial plot to transfer that right through sale or another method.
- Provides that it is a misdemeanor to disturb, deface, or damage a burial ground (current law applies only to "cemeteries").

For additional information on helping to save
 Indiana's pioneer cemeteries, visit the
Indiana Pioneer Cemeteries Restoration Project
 website at:

<http://www.rootsweb.com/~inpcrp>

Indiana Code on-line:

<http://www.ai.org/legislative/ic/code>