

1 H.26

2 Introduced by Representatives Consejo of Sheldon, Branagan of Georgia, Bray
3 of New Haven, Browning of Arlington, Copeland-Hanzas of
4 Bradford, Gilbert of Fairfax, Kitzmiller of Montpelier, Lorber
5 of Burlington, Malcolm of Pawlet, Manwaring of Wilmington,
6 Martin of Springfield, McAllister of Highgate, Moran of
7 Wardsboro, Pearce of Richford, Perley of Enosburg, Savage of
8 Swanton, Shand of Weathersfield, Stevens of Shoreham, Taylor
9 of Barre City, Wheeler of Derby, Young of St. Albans City and
10 Zenie of Colchester

11 Referred to Committee on

12 Date:

13 Subject: Historic preservation; health; unmarked burial sites; plan for
14 treatment

15 Statement of purpose: This bill proposes to authorize the commissioner of
16 housing and community affairs to approve plans for appropriate and respectful
17 treatment of unmarked burial sites; to stipulate that an unmarked burial site
18 may not be disturbed unless done so pursuant to a treatment plan approved by
19 the commissioner of housing and community affairs; and to recodify the statute
20 that establishes an unmarked burial sites special fund.

1 An act relating to plans for treatment of unmarked burial sites

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 18 V.S.A. chapter 121, subchapter 7 is added to read:

4 Subchapter 7. Unmarked Burial Sites

5 § 5601. DEFINITIONS

6 In this subchapter:

7 (1) “Treatment plan” means a plan to provide appropriate and respectful
8 treatment of a burial site and may include any of the following:

9 (A) Methods for determining the presence of an unmarked burial site
10 which may include archaeological surveys and assessments and other
11 nonintrusive techniques.

12 (B) Methods for handling development and excavation on property
13 on which it is known that there is or is likely to be one or more burial sites.

14 (C) Options for owners of property on which human remains in
15 burial sites are discovered or determined to be located.

16 (D) Procedures for protecting, preserving, and moving the burial site
17 and human remains.

18 (E) Procedures for resolving disputes among stakeholders.

19 (2) “Unmarked burial site” means any interment of human remains,
20 evidence of human remains, evidence of cremation, including the presence of
21 red ochre, funerary objects, or a documented concentration of burial sites.

1 “Unmarked burial site” does not include a cemetery, mausoleum, or
2 columbarium managed or maintained by a municipality, church, other
3 organization, or a private individual.

4 § 5602. DISTURBANCE OF AN UNMARKED BURIAL SITE

5 (a) A person who intentionally excavates, disinters, or removes human
6 remains or funerary objects from an unmarked burial site or aids in those
7 activities shall be subject to the penalties of 13 V.S.A. § 3761 unless the person
8 is operating under a treatment plan approved by the commissioner of housing
9 and community affairs. This subsection does not apply to a medical examiner
10 or state’s attorney acting under section 5205 of this title.

11 (b) If, after the completion of an investigation pursuant to section 5205 of
12 this title, a medical examiner determines that the burial site does not fall under
13 the purview of the medical examiner’s office, the medical examiner shall
14 notify the state archaeologist.

15 (c) A person who removes unmarked burial sites and human remains in
16 compliance with a treatment plan pursuant to subsection (a) of this section and any
17 permit required by this chapter shall not be subject to any criminal liability under 13
18 V.S.A. § 3761.

1 § 5603. UNMARKED BURIAL SITES SPECIAL FUND

2 (a) The unmarked burial sites special fund is established in the state treasury for
3 the purpose of protecting, preserving, moving, or reinterring human remains
4 discovered in unmarked burial sites.

5 (b) The fund shall be composed of any monies appropriated to the fund by the
6 general assembly or received from any other source, private or public. Interest earned
7 on the fund and any balance remaining in the fund at the end of a fiscal year shall be
8 retained in the fund. This fund shall be maintained by the state treasurer and shall be
9 managed in accordance with subchapter 5 of chapter 7 of Title 32.

10 (c) The commissioner of housing and community affairs may authorize
11 disbursements from the fund for use in any municipality in which human remains are
12 discovered in unmarked burial sites, provided that the commissioner has approved a
13 treatment plan for the site.

14 (d) The funds shall be used for the following purposes relating to unmarked burial
15 sites:

16 (1) To implement a treatment plan approved by the commissioner of housing
17 and community affairs.

18 (2) To monitor excavations.

19 (3) To perform archaeological assessments and archaeological site or field
20 investigations, including radar scanning and any other nonintrusive technology or
21 technique designed to determine the presence of human remains.

1 (4) To provide mediation and other appropriate dispute resolution services.

2 (5) To acquire property or development rights, provided the commissioner of
3 housing and community affairs determines that disbursements for this purpose will
4 not unduly burden the fund, and further provided the commissioner shall expend
5 funds for this purpose only with the concurrence of the secretary of commerce and
6 community development and after consultation with the legislative bodies of any
7 affected municipality or municipalities.

8 (6) Any other appropriate purpose determined by the commissioner to be
9 consistent with the purposes of this fund.

10 (e) The commissioner may adopt rules to carry out the intent and purpose of this
11 section.

12 Sec. 2. REPEAL

13 18 V.S.A. § 5212b, relating to a burial sites special fund, is repealed.