**24:52:09:03.  Identification and disposition of remains.** An attempt must be made to identify human remains found outside the jurisdiction of cemetery or law authorities. Repatriation to a particular tribe may not occur until the remains are identified, either archaeologically, skeletal, or both, as belonging to that tribe. The process to be followed is:

 (1)  Once a human skeleton has been turned over to the state archaeologist or has been exhumed under permit, it shall be examined by a qualified skeletal analyst in a timely fashion in order to determine its sex, age, and state of health and its racial, cultural, or ethnic affiliation when possible. Records of the analysis must be kept on each individual and included in the report to the state archaeologist;

 (2)  Once any human remains have been identified as belonging to a modern tribe as a result of the skeletal examination or the historical or archaeological evidence, the state archaeologist shall contact the director of the state Office of History and the tribal representatives designated by the state Office of Indian Affairs to discuss disposition of the remains and any associated burial goods;

 (3)  If the tribal representatives choose to accept the remains for tribal reinterment, the state archaeologist shall deliver the remains at a time mutually acceptable to the parties involved; and

 (4)  Those remains which either are not claimed by the tribal representatives or which could not be identified as to tribe shall be reinterred in a cemetery established or designated by the Office of History. Reinterment of remains under the jurisdiction of the state archaeologist shall occur within five years of exhumation except in cases, such as the discovery of mass burials or large numbers of skeletons, where the process of identification will take longer or where the remains are determined by the state archaeologist to be of exceptional scientific importance. In such cases, up to five additional years may be taken before reinterment is required.

 **Source:** 13 SDR 23, effective September 1, 1986; transferred from §§ 24:52:04:02 and 24:52:04:03, 18 SDR 126, effective February 3, 1992.

 **General Authority:** SDCL 1-20-32, 34-27-30.

 **Law Implemented:** SDCL 1-20-32, 34-27-31.