

Public Law 104-278
104th Congress

An Act

To amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

Oct. 9, 1996
[S. 1970]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National
Museum of the
American Indian
Act Amendments
of 1996.
20 USC 80q note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “National Museum of the American Indian Act Amendments of 1996”.

(b) **REFERENCES.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the National Museum of the American Indian Act (20 U.S.C. 80q et seq.).

SEC. 2. BOARD OF TRUSTEES.

Section 5(f)(1)(B) (20 U.S.C. 80q-3(f)(1)(B)) is amended by striking “an Assistant Secretary” and inserting “a senior official”.

SEC. 3. INVENTORY.

(a) **IN GENERAL.**—Section 11(a) (20 U.S.C. 80q-9(a)) is amended—

- (1) by striking “(1)” and inserting “(A)”;
- (2) by striking “(2)” and inserting “(B)”;
- (3) by inserting “(1)” before “The Secretary”; and
- (4) by adding at the end the following new paragraphs:

“(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

“(3) For purposes of this subsection, the term ‘inventory’ means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 11(f) (20 U.S.C. 80q-9(f)) is amended by striking “to carry out this section” and inserting “to carry out this section and section 11A”.

SEC. 4. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

The National Museum of the American Indian Act (20 U.S.C. 80q et seq.) is amended by inserting after section 11 the following new section:

20 USC 80q-9a.

“SEC. 11A. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

“(a) **SUMMARY.**—Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)), based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 6 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3004).

“(b) **REPATRIATION.**—Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

“(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

“(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

“(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

“(c) **STANDARD OF REPATRIATION.**—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

“(d) **MUSEUM OBLIGATION.**—Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this Act.

“(e) **STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution,

from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this Act.

“(f) NATIVE HAWAIIAN ORGANIZATION DEFINED.—For purposes of this section, the term ‘Native Hawaiian organization’ has the meaning provided that term in section 2(11) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(11)).”.

SEC. 5. SPECIAL COMMITTEE.

Section 12 (20 U.S.C. 80q-10) is amended—

(1) in the first sentence of subsection (a), by inserting “and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 11A” before the period; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “five” and inserting “7”;

(B) in paragraph (1)—

(i) by striking “three” and inserting “4”; and

(ii) by striking “and” at the end;

(C) by redesignating paragraph (2) as paragraph (3);

and

(D) by inserting after paragraph (1) the following:

“(2) at least 2 members shall be traditional Indian religious leaders; and”.

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1970:

SENATE REPORTS: No. 104-350 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 5, considered and passed Senate.

Sept. 26, considered and passed House.