

AFRICAN AMERICAN BURIAL GROUNDS PROTECTIONS FACT SHEET

FEDERAL PROTECTIONS

African American Burial Grounds Preservation Act

The African American Burial Grounds Preservation Act was introduced to Congress in 2022 and signed into law as part of the FY2023. The legislation amends title 54 of the United States Code to establish the African American Burial Grounds Preservation Program within the National Park Service (NPS). The goal of the program is to provide competitive grants and technical assistance to local partners to research, identify, survey and preserve African American burial grounds.

In carrying out the program, NPS may make grants to other federal agencies; state, local, and tribal governments; other public entities; educational institutions; historic preservation groups; and private nonprofit organizations for

- the identification of historic African American burial grounds,
- the preservation and restoration of African American burial grounds,
- the interpretation of African American burial grounds, and
- related research and documentation for historic African American burial grounds.

“The African American Burial Grounds Preservation Program will help identify burial grounds ahead of infrastructure projects and commercial development, thereby minimizing construction delays and avoiding unnecessary community heartache. It will assist descendants and communities in honoring and remembering their shared past by providing grant monies to identify, interpret, and preserve historic cemeteries.” (Coalition for American Heritage)

For more information see:

- [S.3667 - African-American Burial Grounds Preservation Act 117th Congress \(2021-2022\)](#)
- [African American Burial Grounds Preservation Program Created in Omnibus Bill](#)
- [National Historic Preservation Act of 1966](#)
- [Native American Graves Protection and Repatriation Act of November 16, 1990](#)

STATE PROTECTIONS

South Carolina Law

The [S.C. Code of Laws, Section 27-43-310](#) provides access to cemeteries on private property. The law states that;

“(a) an owner of private property on which a cemetery, burial ground, or grave is located must allow ingress and egress to the cemetery, burial ground, or grave as provided in this section by any of the following persons:

(1) family members and descendants of deceased persons buried on the private property or an agent who has the written permission of family members or descendants;

(2) a cemetery plot owner;

(3) persons lawfully participating in a burial; or

(4) a person engaging in genealogy research who has received the written permission of:

(a) family members or descendants of deceased persons buried on the private property; or

(b) the owner of record, an agent of the owner of record, or an occupant of the private property acting on behalf and with permission of the owner of record.”

Access to the burial ground is limited to the following purposes, visiting graves, maintenance, lawfully burying a deceased person, and conducting genealogical research. To do this, the person requesting access must provide written notice to the property owner. The law further details the conditions for access. Several states have also provided common law access to cemeteries. One such example is the case of East Cooper River Civic Club *et al.* v. Remley Point Development, LLC. *et al.* (SC Court of Common Pleas for the Ninth Judicial Circuit, Case No. 2001-CP-10-4359), concerning an African American burial ground in Scanlonville, Mt. Pleasant.

Other laws protect human remains from destruction, damage, desecration, and removal (S.C. Code of Laws, Section 16-17-600). According to this law it is also unlawful to steal anything of value from a burial ground or to “destroy, tear down or injure fencing, plants, shrubs or flowers located upon or around a repository for human remains, or within a human graveyard or memorial park.”

For more information see:

- [S.C. Code of Laws, Section 27-43-310](#)
- [South Carolina Department of Archives and History: Preservation Laws](#)
- [Chicora Foundation: Frequently Asked Questions](#)

LOCAL PROTECTIONS

City of Charleston Ordinance

[Code of the City of Charleston, Sec. 7.5-4. - Gravesite protection](#)

In 2021, the City of Charleston passed its first cemetery protection ordinance that enables City officials to stop construction if a developer receives notice that burial sites are present. Chapter 7.5 of the Code of the City of Charleston was amended to add a new Section 7.5-4 – Gravesite Protection as follows:

“(a) Known or probable gravesites in the City of Charleston are protected pursuant to S.C. Code of Laws Section 16-17-600, and any violators of Section 16-17-600 are subject to the penalties provided for therein.

(b) It is unlawful for a person to destruct or desecrate a burial ground where human skeletal remains are buried, a grave, graveyard, tomb, mausoleum, or other repository of human remains without property legal authority. It is unlawful for a person to desecrate a gravestone, memorial monument, marker, park, or area commemorating a deceased person or group of persons.

(c) During any construction, development, re-development, or ground disturbing activity, if a person discovers or is otherwise put on notice of any known or probable gravesites on the subject lot, including but not limited to human remains, grave stones, grave markers, ground depressions, historical markers, historic maps, plats or surveys, photographs, or other indicators of probable gravesites, the person must immediately cease any ground disturbing work and report such notice to the city building official, as well as the county coroner and the appropriate state agencies including the state historic preservation office and the South Carolina Department of Health and Environmental Control. No further ground disturbing activities shall commence until authorization to proceed is issued by the state or county and the city building official in accordance with state law.”

For more information see:

- [City of Charleston Code of Ordinances, Chapter 7.5 - CEMETERIES Sec. 7.5-4. - Gravesite protection.](#)
- [Mapping Charleston’s Black Burial Grounds, Preservation Society of Charleston](#)

LEARN MORE

- [African American Civil Rights Grant Program](#), National Park Service
- [Preservation Leadership Forum Discovering Our Ancestors and Preserving Historic Gravesites Webinar Series](#), National Trust for Historic Preservation
 - [Understanding Site Ownership and Access to Gravesites](#) (Part 1)
 - [Introduction to Investigating, Documenting, and Preserving Gravesites](#) (Part 2)
 - [Discovering Our Ancestors and Preserving Historic Gravesites: Beginning to Care for a Gravesite](#) (Part 3)