



SB1166
RELATING TO THE PENAL CODE
Senate Committee on Hawaiian Affairs

February 6, 2015

9:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Administration will recommend that the Board of Trustees **SUPPORT WITH AMENDMENTS** SB1166, which would decriminalize the traditional Native Hawaiian methods of human remains preparation and burial.

Currently there is public confusion regarding whether the traditional Native Hawaiian methods of preparing human remains for burial and burial would violate Hawai'i law intended to prevent the desecration of human corpses. This bill would clarify that the sacred traditions of our ancestors could be lawfully and safely perpetuated today.

However, to better tailor the bill to accomplish this important goal, we recommend that the bill be amended to, instead, implement the following language:

“; provided that the preparation of a corpse for burial and burial of a corpse in a manner consistent with traditional Hawaiian cultural customs and practices shall not be a violation of this section.”

Therefore, OHA urges the committee to **PASS** SB1166. Mahalo for the opportunity to testify on this important measure.



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

February 5, 2015

TO: Sen. Maile S.L. Shimabukuro, Chair / & Members
Committee on Hawaiian Affairs

FROM: Alice P. Hewett, President
Ko`olaupoko Hawaiian Civic Club

RE: Testimony in Support of S.B. 1166, Relating to the Penal Code

Aloha Chair Shimabukuro, Vice-Chair Galuteria & Committee Members:

The Ko`olaupoko Hawaiian Civic Club strongly supports passage of Senate Bill 1307, which would legalize Hawaiian-style burials. When we first approached our legislators with the subject of Hawaiian burials, it was our intent to encourage and make easier the practice of processing our deceased kupuna to bury their iwi in a more Hawaiian way.

This entails working with a crematory to process the remains so that only the iwi of our loved ones is left. This iwi can then be given to the families, who can then wrap their family iwi in kapa, place in a lauhala or wooden container, and prepared for burial in a private or public cemetery.

We have been informed that such a practice would have been illegal under state law, and this measure seeks to rectify that problem. Let us explain why we think this particular Hawaiian practice is actually something that our entire community should embrace in modern times.

- 1) Deceased persons who are reduced to just iwi – bone – constitute what we call a “clean burial”, no chemicals would be added to our environment. This practice is healthier for our `aina.
- 2) If iwi are placed in lauhala baskets for burial, these would likely be much smaller than modern caskets, therefore requiring less cemetery “real estate” – increasing the capacity of our commercial cemeteries to provide burial spaces for our growing population of kupuna.
- 3) Because this process requires less space and could use alternatives to expensive caskets, the cost of burials, particularly for Hawaiian families, could be greatly reduced. Many families today have great difficulty affording modern funerals and all that goes with it.

We urge your committee and the Legislature to act favorably with this bill, and pass S.B. 1166 into law. Mahalo for allowing us to share our mana`o.

The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. Its membership is open to people of Hawaiian ancestry and those who are “Hawaiian at heart”.

From: kenordenstein@aol.com
To: [HWNTestimony](#)
Subject: Testimony in Support S.B. 1166
Date: Thursday, February 05, 2015 3:04:09 PM

Senators Maile Shimabukuro, Chair and Brickwood Galuteria, Vice Chair,
I support S.B 1166 that provides that the treatment of a corpse in a manner consistent with traditional Hawaiian cultural customs and practices shall not constitute the abuse of a corpse within the penal code.
My family has been in funeral service since 1863. My great-great grandfather, Manuel Silva was a wood worker and coffin maker for the firm of C.E. Williams founded in 1859.
Maholo Nui,
Ken Ordenstein

Ken Ordenstein
Funeral Director
Call 808 235 5552 24 hours
Email kenordenstein@gmail.com

Ken Ordenstein Funerals

45-270 William Henry Road, Suite 204, Kaneohe, Hawai'i 96744
Visit www.kenordensteinfunerals.com



Ko`olau Foundation

P. O. Box 4749
Kane`ohe, HI 96744

February 4, 2015

To: Sen. Maile S.L. Shimabukuro, Chair
Sen. Brickwood Galuteria, Vice-Chair / & Members
Committee on Hawaiian Affairs

From: Mahealani Cypher, Secretary & Board Member
Ko`olau Foundation

Subject: S.B. 1166 – Relating to the Penal Code – Testimony in Support

Aloha mai kakou!

The Ko`olau Foundation offers its strong support for passage of S.B. 1166, Relating to the Penal Code. This bill essentially decriminalizes Hawaiian burial practices which might be considered illegal under these sections of state law.

Our organization works hard to advocate for the perpetuation of Hawaiian culture and practices. We are interested in seeing a modern version of an ancient practice, to reduce our deceased to iwi, wrap in kapa and bury in lauhala basket.

Granted, the old practice was reserved for certain individuals, and may not have been available to all our people. However, considering the environmental impacts of modern-style burials and the high cost of funerals and cemetery plots, perhaps it is time to consider these types of burial processes as an alternative for our people.

Clean burials such as the iwi kupuna of centuries ago, which did not contain chemicals, are healthier for our islands. The kapa makers and lauhala weavers would benefit from increased demand for their products. Perhaps families could bury more of their loved ones in the limited plots of our cemeteries. And certainly, this could reduce the cost of funerals, which today poses significant hardships on our bereaved families.

We are not saying that you should do away with modern-style burials; for those who prefer that way, it's up to them. But for those individuals or families who would like to malama `aina for themselves or their loved ones, Hawaiian-style burials – made more “legitimate” by passage of this bill – should be an allowable alternative.

Please pass this bill out of committee and into law.

Mahalo nui loa.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HAWAIIAN AFFAIRS
For hearing Friday, February 6, 2015

Re: SB 1166 RELATING TO THE PENAL CODE.

Provides that the treatment of a corpse in a manner consistent with traditional Hawaiian cultural customs and practices shall not constitute the abuse of a corpse within the penal code.

TESTIMONY SUPPORTING THE INTENT OF THIS BILL BUT NOTING THAT
IT NEEDS AMENDMENTS TO BROADEN IT IN ONE RESPECT AND TO
NARROW IT IN ANOTHER RESPECT

I support the intent of this bill, which I believe is to respect the right of Native Hawaiians to preserve their ancient culture by engaging in ancient ways of treating a corpse without being punished for violating modern law regarding abuse of a corpse. But shouldn't this bill grant that same right to people who are not Native Hawaiian? Also, would we want this bill to authorize a Native Hawaiian to use ancient cultural

practices to abuse a corpse when the dead person would have strongly objected, or perhaps was not even Native Hawaiian?

As this bill notes, current law says a person commits the offense of abuse of a corpse if he treats a human corpse "in a way that the person knows would outrage ordinary family sensibilities."

There were many different ways corpses were treated in ancient Hawaiian culture. One of the most gruesome ways, judging by modern mainstream culture, was to put the corpse into an imu (earthen oven) and bake it until the flesh fell off the bones; and then gather the long bones (arms and legs) and wrap them in kapa cloth, enclose them in a coconut-fiber casket shaped like a miniature human, and bury the "ka'ai" secretly in a cave. Clearly that way of treating a corpse "would outrage ordinary family sensibilities" and be subject to prosecution for abuse of a corpse under the existing statute. Is there any Native Hawaiian now living who would like his own corpse to be handled in that way? If so, his surviving family members should be able to do so without fear of prosecution.

However, the bill is too narrow, because it does not grant a similar right to people of other races, religions, and cultures. Shouldn't Christians, Jews, Buddhists, Muslims, and people who have no religious affiliation have the same right to respectfully treat the corpses of their family members or fellow religionists in accordance with religious or cultural customs without fearing prosecution for "abuse of a corpse"? Perhaps a man who was never circumcised would have liked to have that ritual performed upon his corpse before he goes to meet his maker -- a decision his family members should be able to make on his behalf even if he never wrote it in his will. Perhaps a scholar of Egyptology would like his next of kin to eviscerate his corpse and mummify it. Perhaps someone would like his body to be immediately frozen and put in a cryogenic capsule to be preserved until two centuries later when the disease that killed him can be cured after he is revived.

The bill is also too broad, because it would give license to any Native Hawaiian to treat a corpse according to ancient Hawaiian practices even if the dead person would strongly disapprove of his corpse being treated that way -- perhaps the dead person was not Native Hawaiian at all; or perhaps he was a Native Hawaiian who was nevertheless a Christian, Jew, Buddhist, Muslim or person with no religious affiliation, who did not practice or believe in the ancient Hawaiian culture or religion and would have considered the ancient Hawaiian customs repulsive. The way the bill is written would give license to a zealous practitioner of ancient Hawaiian burial methods to inflict those methods on the corpse even if the person who died would have strenuously objected.

I am not a lawyer, but there are many lawyers available to the legislature. Please improve the language in this bill by taking account of the two areas of improvement I have described; or else defer the bill indefinitely.

From: mailinglist@capitol.hawaii.gov
To: [HWNTestimony](#)
Cc: foxw001@hawaii.rr.com
Subject: Submitted testimony for SB1166 on Feb 6, 2015 13:20PM
Date: Thursday, February 05, 2015 2:34:01 PM

SB1166

Submitted on: 2/5/2015

Testimony for HWN on Feb 6, 2015 13:20PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
William Keoni Fox	Individual	Support	No

Comments: I support efforts to allow this traditional Hawaiian practice. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TESTIMONY IN SUPPORT OF SB 1166 ENTITLED "RELATING TO THE PENAL CODE"

ON FEBRUARY 6, 2015, 1:20 P.M. CONFERENCE ROOM 224

BEFORE THE COMMITTEE ON HAWAIIAN AFFAIRS

Aloha Chairman Shimabukuro, Vicechairman Galuteria and Senators: Mahalo for the opportunity to testify in support of the intent of this bill to correct the penal code to allow "traditional Hawaiian burials" to be reinterred in commercial and or private cemeteries.

This issue comes up due to the lack of available land often in matters where na iwi o kupuna is inadvertently found in the following cases but not limited to just these instances:

1. after high waves and other natural cause expose them,
2. in public lands where there is no place to reinter them safely,
3. or in instances where a landowner refuses to kokua with a safe reinterment area.

It would be another option for families and recognized claimants to be able to safely reinter na iwi o kupuna in commercial and or private cemeteries without fear of violating the state law.

Mahalo for your positive support of this significant bill to malama na iwi o kupuna.

I have served as the first chairman of the Oahu Island Burial Council (OIBC) at its inception and served as a member for 13 years. Also, I have cultural training in the care of na iwi o kupuna from respected kupuna and my own family traditions. I continue to assist in reinterments, to teach others to malama na iwi o kupuna.

Sincerely,

Phyllis Coochie Cayan
99060 Kauhale Street #607
Aiea, HI 96701