
A BILL FOR AN ACT

RELATING TO BURIALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there has been a
2 recent increase of interest in traditional Native Hawaiian
3 practices for burials amongst Native Hawaiians and non-Native
4 Hawaiians. The cultural significance of iwi kupuna (ancestral
5 bones) is deeply rooted in Native Hawaiian oral traditions,
6 language, and culture. Native Hawaiian burial traditions
7 acknowledge the natural cycles of life and death, and kupuna
8 offer spiritual sustenance to present generations. Iwi are
9 vital to the perpetuation of living Native Hawaiians, as they
10 are the lasting embodiment of ancestors and a continuous
11 genealogical link from the past to present and future
12 generations.

13 The legislature further finds that traditional Native
14 Hawaiian burials include the practices for treatment of human
15 remains, which involve reducing the remains to its skeletal
16 components and interring the iwi in a kapa or lauhala container.
17 A traditional Native Hawaiian burial utilizes modern technology



1 to effect the removal of the flesh and fluids from a human
2 corpse in a manner leaving the bones intact and unharmed. The
3 traditional Native Hawaiian treatment of human remains is safe,
4 feasible, and cost effective using modern flame crematories or
5 other similar operations.

6 Modern treatment of corpses often involves chemicals, such
7 as embalming fluids, which can be harmful to the environment
8 when buried, as the chemicals will eventually be released into
9 the soil and aquifers. Prioritizing traditional Native Hawaiian
10 burial techniques such as alkaline hydrolysis or water cremation
11 is a cleaner, gentler, and more environmentally friendly process
12 than modern treatment of human remains. Further, traditional
13 Native Hawaiian burials are more cost effective than modern
14 burial techniques. Smaller burial plots are required and the
15 cost of caskets is avoided. Thus, the decrease in space
16 required for a burial plot will result in an increase in the
17 carrying capacities for cemeteries.

18 Currently, the department of health does not have rules or
19 policies addressing traditional Native Hawaiian burial
20 practices. The adoption of rules and policies to address
21 traditional Native Hawaiian burial practices would encourage and



1 promote the use of those practices. Hawaii Administrative Rules
2 regulate the embalming, transportation, and burial of human
3 remains, and include requirements relating to the encasement and
4 interment of the deceased. However, these regulations do not
5 specifically address or expressly accommodate the partial
6 cremation and burial of human remains, as is consistent with
7 Native Hawaiian traditional practices.

8 The purpose of this Act is to:

- 9 (1) Include the use of traditional Native Hawaiian burial
10 practices in the treatment and disposal of human
11 remains, including the use of alkaline hydrolysis and
12 natural organic reduction; and
13 (2) Require the department of health to adopt rules to
14 implement this Act.

15 SECTION 2. Section 327-32, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§327-32 Administration; duties of health officers.** Every
18 head officer of a hospital, nursing home, correctional facility,
19 funeral parlor, or mortuary and every county medical examiner or
20 coroner and every state or county officer, and every other
21 person who has possession, charge, or control of any unclaimed



1 dead human body that may [~~be cremated~~] undergo cremation,
2 alkaline hydrolysis, or natural organic reduction at public
3 expense pursuant to section 346-15 shall:

4 (1) Exercise due diligence to notify the relatives[~~7~~] and
5 friends of the decedent, any representative of a
6 fraternal society of which the deceased was a member,
7 and any legally responsible party; and

8 (2) Submit in writing to the department of human services
9 a description of the efforts used in making the
10 determination that the dead human body is unclaimed in
11 accordance with section 346-15, if payment for
12 cremation is sought.

13 Nothing in this section shall be construed to affect the
14 requirements relating to the filing of a certificate of death
15 with the department of health pursuant to chapter 338."

16 SECTION 3. Section 327-36, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§327-36 Final disposition of anatomical gifts.** A person
19 or procurement organization that holds a dead human body as a
20 result of an anatomical gift shall, when the body is deemed of
21 no further value for purposes of transplantation, therapy,



1 research, or education, be responsible for the final disposition
2 of that dead human body and all of its parts, except those parts
3 used for transplantation. The person or procurement
4 organization shall dispose of the remains by cremation, alkaline
5 hydrolysis, or natural organic reduction, except as otherwise
6 provided in section 327-14 or as directed in a document of gift,
7 subject to any required disposition permits."

8 SECTION 4. Section 346-15, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) All unclaimed dead human bodies shall [~~be cremated.~~]
11 undergo cremation, alkaline hydrolysis, or natural organic
12 reduction. The department may bear the cost of the mortuary
13 [~~and~~], crematory, alkaline hydrolysis, or natural organic
14 reduction services for unclaimed dead human bodies furnished by
15 any licensed provider of mortuary or crematory services.
16 Payments for mortuary and crematory services shall be made to
17 the extent of the cost, or in the sum of \$800 in total,
18 whichever is less, for each unclaimed dead human body.
19 Individuals who have possession, charge, or control of any
20 unclaimed dead human body to be cremated at public expense shall
21 have sixty days from the date of the deceased's death to submit



1 in writing to the department its determination that the dead
2 human body is unclaimed and its application for payment for
3 cremation. The county medical examiners or coroners shall have
4 no time limitation by which to submit their written
5 determination that the dead human body is unclaimed and their
6 application for payment for cremation."

7 SECTION 5. Section 531B-2, Hawaii Revised Statutes, is
8 amended by adding seven new definitions to be appropriately
9 inserted and to read as follows:

10 "Alkaline hydrolysis" or "hydrolysis" means the reduction
11 of human remains to bone fragments and essential elements in a
12 licensed hydrolysis facility using heat, pressure, water, and
13 base chemical agents.

14 "Cremated remains" means all human remains recovered after
15 the completion of the cremation, which may possibly include the
16 residue of any foreign matter, including but not limited to
17 casket material, bridgework, or eyeglasses that were cremated
18 with the human remains.

19 "Cremation" means the irreversible process of reducing
20 human remains to bone fragments (skeletal remains) through heat
21 and evaporation.



1 "Hydrolysis equipment" means the equipment, machinery, or
2 unit specifically designed and built for the purposes of
3 processing human remains using alkaline hydrolysis. "Hydrolysis
4 equipment" includes but is not limited to prebuilt and
5 prepackaged hydrolysis units or equipment that is erected on
6 site of the facility.

7 "Hydrolysis facility" means a structure, room, or other
8 space in a building or structure containing hydrolysis
9 equipment, to be used for alkaline hydrolysis.

10 "Natural organic reduction" means the contained,
11 accelerated conversion of human remains to soil.

12 "Natural organic reduction facility" means a structure,
13 room, or other space in a building or real property where
14 natural organic reduction of a human body occurs."

15 SECTION 6. Section 531B-6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§531B-6[+] **Forfeiture of right to direct disposition.**

18 A person entitled under law to the right of disposition shall
19 forfeit that right, and the right is passed on to the next
20 person in the order of priority as listed in section 531B-4,
21 under the following circumstances:



- 1 (1) The person is charged with murder or manslaughter in
2 connection with the decedent's death, and the charges
3 are known to the funeral director or manager of the
4 funeral establishment, cemetery, mortuary, [~~or~~]
5 crematory[+], hydrolysis facility, or natural organic
6 reduction facility; provided that if the charges
7 against the person are dismissed, or if the person is
8 acquitted of the charges, the right of disposition is
9 returned to that person, unless the dismissal or
10 acquittal occurs after the final disposition has been
11 completed;
- 12 (2) The person does not exercise the person's right of
13 disposition within five days of notification of the
14 decedent's death or within seven days of the
15 decedent's death, whichever is earlier;
- 16 (3) The person and the decedent are spouses, civil union
17 partners, or reciprocal beneficiaries, and at the time
18 of the decedent's death, proceedings for annulment,
19 divorce, or separation had been initiated or a
20 declaration for termination of the reciprocal
21 beneficiary relationship had been filed; or



1 (4) The probate court pursuant to section 531B-7
2 determines that the person entitled to the right of
3 disposition and the decedent were estranged at the
4 time of death."

5 SECTION 7. Section 531B-7, Hawaii Revised Statutes, is
6 amended by amending subsections (b) and (c) to read as follows:

7 "(b) The following provisions shall apply to the court's
8 determination under this section:

9 (1) If two or more persons with the same priority class
10 hold the right of disposition and cannot agree by
11 majority vote regarding the disposition of the
12 decedent's remains, or there are any persons who claim
13 to have priority over any other person, any of these
14 persons or a funeral establishment, cemetery,
15 mortuary, ~~[or]~~ crematory, hydrolysis facility, or
16 natural organic reduction facility with custody of the
17 remains may file a petition asking the probate court
18 to make a determination in the matter; and

19 (2) In making a determination in a case where there are
20 two or more persons with the same priority class who



1 cannot agree by majority vote, the probate court may
2 consider the following:

- 3 (A) The reasonableness and practicality of the
4 proposed funeral arrangements and disposition;
- 5 (B) The degree of the personal relationship between
6 the decedent and each of the persons claiming the
7 right of disposition;
- 8 (C) The desires of the person or persons who are
9 ready, able, and willing to pay the cost of the
10 funeral arrangements and disposition;
- 11 (D) The convenience and needs of other families and
12 friends wishing to pay respects;
- 13 (E) The desires of the decedent; and
- 14 (F) The degree to which the funeral arrangements
15 would allow maximum participation by all wishing
16 to pay respect.

17 (c) In the event of a dispute regarding the right of
18 disposition, a funeral establishment, cemetery, mortuary, [✕]
19 crematory, hydrolysis facility, or natural organic reduction
20 facility shall not be liable for refusing to accept the remains,
21 to inter or otherwise dispose of the remains of the decedent, or



1 complete the arrangements for the final disposition of the
2 remains until it receives a court order or other written
3 agreement signed by the parties in the disagreement that the
4 dispute has been resolved or settled.

5 If the funeral establishment, cemetery, mortuary, [~~or~~]
6 crematory, hydrolysis facility, or natural organic reduction
7 facility retains the remains for final disposition while the
8 parties are in disagreement, it may embalm or refrigerate and
9 shelter the body, or both, while awaiting the final decision of
10 the probate court and may add the cost of embalming or
11 refrigeration and sheltering to the cost of final disposition.

12 If a funeral establishment, cemetery, mortuary, [~~or~~]
13 crematory, hydrolysis facility, or natural organic reduction
14 facility brings an action under this section, it may add the
15 legal fees and court costs associated with a petition under this
16 section to the cost of final disposition.

17 This section shall not be construed to require or impose a
18 duty upon a funeral establishment, cemetery, mortuary, [~~or~~]
19 crematory, hydrolysis facility, or natural organic reduction
20 facility to bring an action under this section.



1 A funeral establishment, cemetery, mortuary, [Ø]
2 crematory, hydrolysis facility, or natural organic reduction
3 facility and its officers, directors, managers, members,
4 partners, or employees may not be held criminally or civilly
5 liable for choosing not to bring an action under this section."

6 SECTION 8. Section 531B-8, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) A funeral establishment, cemetery, mortuary, [Ø]
9 crematory, hydrolysis facility, or natural organic reduction
10 facility shall have the right to rely on the funeral service
11 agreement, cremation authorization form, or any other
12 authorization form, including the identification of the
13 decedent, and shall have the authority to carry out the
14 instructions of the person or persons whom the funeral
15 establishment, cemetery, mortuary, [Ø] crematory, hydrolysis
16 facility, or natural organic reduction facility reasonably
17 believes to hold the right of disposition.

18 (c) The funeral establishment, cemetery, mortuary, [Ø]
19 crematory, hydrolysis facility, or natural organic reduction
20 facility shall have no responsibility to verify the identity of
21 the decedent or contact or independently investigate the



1 existence of any person who may have a right of disposition. If
2 there is more than one person in the same priority class
3 pursuant to section 531B-4 and the funeral establishment,
4 cemetery, mortuary, [~~or~~] crematory, hydrolysis facility, or
5 natural organic reduction facility has no knowledge of any
6 objection by other members of the priority class, it may rely on
7 and act according to the instructions of the first person in the
8 priority class to make funeral and disposition arrangements;
9 provided that no other person in the priority class provides
10 written notice to the funeral establishment, cemetery, mortuary,
11 [~~or~~] crematory, hydrolysis facility, or natural organic
12 reduction facility of that person's objections."

13 SECTION 9. Section 531B-9, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) A funeral director or manager of a funeral
16 establishment, cemetery, mortuary, [~~or~~] crematory, hydrolysis
17 facility, or natural organic reduction facility shall have
18 complete authority to direct and control the final disposition
19 and disposal of a decedent's remains and to proceed under this
20 chapter to recover reasonable charges for the final disposition
21 and disposal if:



- 1 (1) The funeral director or manager:
- 2 (A) Has no knowledge that any of the persons
- 3 described in section 531B-4(a)(1) through
- 4 [‡] (a) (10) [‡] exist;
- 5 (B) Has knowledge that the person or persons who may
- 6 or do have the right of disposition cannot be
- 7 found after reasonable inquiry or reasonable
- 8 attempts to contact; or
- 9 (C) Has knowledge that the person or persons who may
- 10 or do have the right of disposition have lost
- 11 this right pursuant to section 531B-6; and
- 12 (2) The appropriate public authority fails to assume
- 13 responsibility for disposition of the remains within
- 14 thirty-six hours after having been given written
- 15 notice of the decedent's death. Written notice may be
- 16 given by hand delivery, certified mail, facsimile
- 17 transmission, or electronic mail transmission."

18 SECTION 10. Section 531B-11, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "[‡]§531B-11[‡] **Immunity.** No funeral establishment,
 21 cemetery, mortuary, [~~or~~] crematory, hydrolysis facility, or



1 natural organic reduction facility or any of its officers,
2 directors, members, partners, funeral directors, managers, or
3 employees who reasonably rely in good faith upon the
4 instructions of an individual claiming the right of disposition
5 shall be subject to criminal or civil liability or
6 administrative or disciplinary action for carrying out the
7 disposition of the remains in accordance with the instructions."

8 SECTION 11. Section 841-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§841-10 Decent burial.** When any coroner or deputy
11 coroner takes an inquest upon the dead body of a stranger or
12 indigent person or, being called for that purpose, does not
13 think it necessary, on view of the body, that any inquest should
14 be taken, the coroner or deputy coroner shall cause the body to
15 be decently buried or [~~cremated.~~] undergo cremation, alkaline
16 hydrolysis, or natural organic reduction. A burial-transit
17 permit authorizing a burial [~~or~~], cremation, alkaline
18 hydrolysis, or natural organic reduction shall be secured from
19 the local agent of the department of health by the person in
20 charge of [~~such~~] the burial [~~or~~], cremation[-], alkaline
21 hydrolysis, or natural organic reduction."



1 SECTION 12. The department of health shall adopt rules
2 pursuant to chapter 91 to implement this Act.

3 SECTION 13. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 14. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 15. This Act shall take effect on July 1, 2060.



Report Title:

Human Remains; Alkaline Hydrolysis; Natural Organic Reduction;
DOH

Description:

Includes the use of traditional Native Hawaiian burial practices in the treatment and disposal of human remains, including the use of alkaline hydrolysis and natural organic reduction. Requires the department of health to adopt rules. Effective 7/1/2060. (HD2)

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