



GOV. MSG. NO. 1423

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 12, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 12, 2022, the following bill was signed into law:

HB1894 HD3 SD2

RELATING TO HUMAN REMAINS.
ACT 294

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

ORIGINAL

Approved by the Governor

on JUL 12 2022

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

ACT 294
H.B. NO. 1894
H.D. 3
S.D. 2

A BILL FOR AN ACT

RELATING TO HUMAN REMAINS.

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, or
5 ancestral bones, is deeply rooted in Native Hawaiian oral
6 traditions, language, and culture. Native Hawaiian burial
7 traditions acknowledge the natural cycles of life and death, and
8 kupuna offer spiritual sustenance to present generations.
9 Traditional Native Hawaiian burials include the practices for
10 treatment of human remains, which involve reducing remains to
11 skeletal components and interring the iwi in a kapa or lauhala
12 container. The legislature finds that these traditional Native
13 Hawaiian burials play a critical role in Hawaiian culture and
14 should be encouraged to promote greater cultural preservation.
15 The legislature also finds that a process called water
16 cremation, technically known as alkaline hydrolysis, provides a
17 more eco-friendly, cleaner, and gentler alternative to flame

1 cremation for the treatment of remains. The legislature
2 recognizes that in 2018, the remains of over eight thousand five
3 hundred individuals were cremated by conventional means in the
4 State, resulting in the release of over 4,500,000 pounds of
5 carbon dioxide into the atmosphere. Water cremation, which uses
6 a base solution of ninety-five per cent water and five per cent
7 potassium hydroxide to accelerate decomposition, consumes
8 one-eighth the energy of a flame crematory and results in a
9 seventy-five per cent reduction in carbon emissions. This
10 alternative process also destroys pathogens, protects operators,
11 leaves no deoxyribonucleic acid in water or cremated remains,
12 emits no mercury amalgam into the atmosphere, does not
13 contaminate groundwater, does not require the extraction of
14 pacemakers and implants from the deceased (families may choose
15 to extract those implants to recycle them), and returns a safe
16 by-product to the families of the deceased. The alternative
17 water cremation process benefits both practitioners of
18 traditional Native Hawaiian burial techniques and individuals
19 who want an environmentally-friendly cremation option for
20 themselves or their loved ones. For more than fifteen years,
21 leading institutions, such as the Mayo Clinic in Rochester,

1 Minnesota, and the University of California School of Medicine,
2 have used water cremation, and more than twenty-one states have
3 approved the process.

4 Accordingly, the purpose of this Act is to accommodate the
5 use of both traditional Native Hawaiian burial practices and
6 environmentally-friendly burial practices by including water
7 cremation in the treatment and disposal of human remains.

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to title 19 to be appropriately designated
10 and to read as follows:

11 "CHAPTER

12 HYDROLYSIS FACILITIES

13 § -1 Definitions. As used in this chapter, unless the
14 context requires otherwise:

15 "Department" means the department of health.

16 "Hydrolysis equipment" has the same meaning as in section
17 531B-2.

18 "Hydrolysis facility" has the same meaning as in section
19 531B-2.

20 § -2 Hydrolysis facilities operating as mortuaries or
21 funeral establishments; human remains. Any commercial

1 § -4 Wastewater discharge. Hydrolysis facilities shall
2 pretreat the wastewater effluent prior to discharge pursuant to
3 county, state, and federal regulations. The wastewater shall
4 only be discharged into a municipal sewer system as approved by
5 the counties. Discharges into privately owned wastewater
6 systems shall not be allowed."

7 SECTION 3. Section 327-32, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§327-32 Administration; duties of health officers. Every
10 head officer of a hospital, nursing home, correctional facility,
11 funeral parlor, or mortuary and every county medical examiner or
12 coroner and every state or county officer, and every other
13 person who has possession, charge, or control of any unclaimed
14 dead human body that may [~~be-cremated~~] undergo cremation as
15 defined in section 531B-2 at public expense pursuant to section
16 346-15 shall:

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

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

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

9 SECTION 4. Section 327-36, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§327-36 Final disposition of anatomical gifts.** A person
12 or procurement organization that holds a dead human body as a
13 result of an anatomical gift shall, when the body is deemed of
14 no further value for purposes of transplantation, therapy,
15 research, or education, be responsible for the final disposition
16 of that dead human body and all of its parts, except those parts
17 used for transplantation. The person or procurement
18 organization shall dispose of the remains by cremation[7] as
19 defined in section 531B-2, except as otherwise provided in
20 section 327-14 or as directed in a document of gift, subject to
21 any required disposition permits."

1 SECTION 5. Section 346-15, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) All unclaimed dead human bodies shall ~~[be-cremated.]~~
5 undergo cremation as defined in section 531B-2. The department
6 may bear the cost of the mortuary ~~[and]~~, crematory, or
7 hydrolysis facility services for unclaimed dead human bodies
8 furnished by any licensed provider of ~~[mortuary or crematory]~~
9 these services. Payments for ~~[mortuary and crematory]~~ these
10 services shall be made to the extent of the cost, or in the sum
11 of \$800 in total, whichever is less, for each unclaimed dead
12 human body. Individuals who have possession, charge, or control
13 of any unclaimed dead human body to ~~[be-cremated]~~ undergo
14 cremation at public expense shall have sixty days from the date
15 of the deceased's death to submit in writing to the department
16 its determination that the dead human body is unclaimed and its
17 application for payment for cremation. The county medical
18 examiners or coroners shall have no time limitation by which to
19 submit their written determination that the dead human body is
20 unclaimed and their application for payment for cremation."

21 2. By amending subsection (e) to read:

1 "(e) For the purposes of this section, "unclaimed dead
2 human body" means the remains of any deceased person for whom no
3 one has assumed responsibility for disposition and no legally
4 responsible individual has been identified. Pursuant to section
5 327-32, the department shall review the written description of
6 the efforts used in making the determination that a dead human
7 body is unclaimed and approve the determination for purposes of
8 payment of the mortuary [~~and~~], crematory, or hydrolysis facility
9 services, if it meets the department's requirements."

10 SECTION 6. Section 531B-2, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By adding six new definitions to be appropriately
13 inserted and to read:

14 "Conventional cremation" means the irreversible process of
15 reducing human remains to bone fragments or skeletal remains
16 through heat and evaporation.

17 "Cremated remains" means all human remains recovered after
18 the completion of the cremation, which may include the residue
19 of any foreign matter, including casket material, bridgework, or
20 eyeglasses that were cremated with the human remains.

1 "Cremation" means conventional cremation or water
2 cremation.

3 "Hydrolysis equipment" means the equipment, machinery, or
4 unit specifically designed and built for the purposes of
5 processing human remains using water cremation. "Hydrolysis
6 equipment" includes prebuilt and prepackaged hydrolysis units or
7 equipment that is erected on site of a hydrolysis facility.

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

11 "Water cremation" means alkaline hydrolysis, which is the
12 reduction of human remains to bone fragments and essential
13 elements using heat, pressure, water, and base chemical agents."

14 2. By amending the definition of "crematory" to read:

15 "Crematory" means a structure containing a furnace used or
16 intended to be used for the conventional cremation of human
17 remains."

18 SECTION 7. Section 531B-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~+~~§531B-6~~+~~ Forfeiture of right to direct disposition.

21 A person entitled under law to the right of disposition shall

1 forfeit that right, and the right is passed on to the next
2 person in the order of priority as listed in section 531B-4,
3 under the following circumstances:

4 (1) The person is charged with murder or manslaughter in
5 connection with the decedent's death, and the charges
6 are known to the funeral director or manager of the
7 funeral establishment, cemetery, mortuary, [~~ex~~]
8 crematory[~~+~~], or hydrolysis facility; provided that if
9 the charges against the person are dismissed, or if
10 the person is acquitted of the charges, the right of
11 disposition is returned to that person, unless the
12 dismissal or acquittal occurs after the final
13 disposition has been completed;

14 (2) The person does not exercise the person's right of
15 disposition within five days of notification of the
16 decedent's death or within seven days of the
17 decedent's death, whichever is earlier;

18 (3) The person and the decedent are spouses, civil union
19 partners, or reciprocal beneficiaries, and at the time
20 of the decedent's death, proceedings for annulment,
21 divorce, or separation had been initiated or a

1 declaration for termination of the reciprocal
2 beneficiary relationship had been filed; or
3 (4) The probate court pursuant to section 531B-7
4 determines that the person entitled to the right of
5 disposition and the decedent were estranged at the
6 time of death."

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

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

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

1 (2) In making a determination in a case where there are
2 two or more persons with the same priority class who
3 cannot agree by majority vote, the probate court may
4 consider the following:

5 (A) The reasonableness and practicality of the
6 proposed funeral arrangements and disposition;

7 (B) The degree of the personal relationship between
8 the decedent and each of the persons claiming the
9 right of disposition;

10 (C) The desires of the person or persons who are
11 ready, able, and willing to pay the cost of the
12 funeral arrangements and disposition;

13 (D) The convenience and needs of other families and
14 friends wishing to pay respects;

15 (E) The desires of the decedent; and

16 (F) The degree to which the funeral arrangements
17 would allow maximum participation by all wishing
18 to pay respect.

19 (c) In the event of a dispute regarding the right of
20 disposition, a funeral establishment, cemetery, mortuary, [~~or~~]
21 crematory, or hydrolysis facility shall not be liable for

1 refusing to accept the remains, to inter or otherwise dispose of
2 the remains of the decedent, or complete the arrangements for
3 the final disposition of the remains until it receives a court
4 order or other written agreement signed by the parties in the
5 disagreement that the dispute has been resolved or settled.

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

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

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

1 funeral establishment, cemetery, mortuary, [~~or~~] crematory, or
 2 hydrolysis facility has no knowledge of any objection by other
 3 members of the priority class, it may rely on and act according
 4 to the instructions of the first person in the priority class to
 5 make funeral and disposition arrangements; provided that no
 6 other person in the priority class provides written notice to
 7 the funeral establishment, cemetery, mortuary, [~~or~~] crematory,
 8 or hydrolysis facility of that person's objections."

9 SECTION 10. Section 531B-9, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

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

17 (1) The funeral director or manager:

18 (A) Has no knowledge that any of the persons
 19 described in section 531B-4(a)(1) through
 20 [~~+~~] (a) (10) [~~+~~] exist;

1 direct the disposition, the funeral establishment, cemetery,
2 mortuary, ~~[e]~~ crematory, or hydrolysis facility with lawful
3 possession of the cremated remains may dispose of the remains by
4 any manner that is not inconsistent with any law of the State."

5 SECTION 12. Section 531B-11, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[f]~~ §531B-11 ~~[f]~~ Immunity. No funeral establishment,
8 cemetery, mortuary, ~~[e]~~ crematory, or hydrolysis facility or
9 any of its officers, directors, members, partners, funeral
10 directors, managers, or employees who reasonably rely in good
11 faith upon the instructions of an individual claiming the right
12 of disposition shall be subject to criminal or civil liability
13 or administrative or disciplinary action for carrying out the
14 disposition of the remains in accordance with the instructions."

15 SECTION 13. Section 841-10, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§841-10 Decent burial. When any coroner or deputy
18 coroner takes an inquest upon the dead body of a stranger or
19 indigent person or, being called for that purpose, does not
20 ~~[think]~~ determine it necessary, on view of the body, that any
21 inquest should be taken, the coroner or deputy coroner shall

1 cause the body to be decently buried or [~~exemated-~~] undergo
2 cremation as defined in section 531B-2. A burial-transit permit
3 authorizing a burial or cremation shall be secured from the
4 local agent of the department of health by the person in charge
5 of [~~such~~] the burial or cremation."

6 SECTION 14. This Act does not affect rights and duties
7 that matured, penalties that were incurred, and proceedings that
8 were begun before its effective date.

9 SECTION 15. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 16. This Act shall take effect upon its approval.

APPROVED this 12th day of July , 2022



GOVERNOR OF THE STATE OF HAWAII



HB No. 1894, HD 3, SD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 1894, H.D. 3, S.D. 2

THE SENATE OF THE STATE OF HAWAI'I

Date: April 8, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.


President of the Senate


Clerk of the Senate