
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
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 Hawaiian burial techniques and individuals who want
19 an environmentally-friendly cremation option for themselves or
20 their loved ones. For more than fifteen years, leading
21 institutions such as the Mayo Clinic in Rochester, Minnesota,



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

4 Accordingly, the purpose of this Act is to accommodate the
5 use of both traditional 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 25 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 commerce and consumer
16 affairs.

17 "Hydrolysis equipment", and "hydrolysis facility" shall
18 have the same meaning as in section 531B-2.

19 § -2 **Licensing; human remains.** (a) Any hydrolysis
20 facility in the State shall be subject to licensing requirements
21 established by the department.



1 (b) Each operator of a hydrolysis facility in the State
2 shall undergo training pursuant to standards established by the
3 department and shall hold a valid license issued by the
4 department.

5 **§ -3 Hydrolysis equipment.** Hydrolysis equipment used at
6 any hydrolysis facility in the State shall:

- 7 (1) Reach a temperature of at least three hundred degrees
8 Fahrenheit or one hundred fifty degrees Celsius to
9 guarantee the complete sterilization of the liquid and
10 bones, as validated using *Geobacillus*
11 *stearothermophilus* spores at one million colony
12 forming units per milliliter;
- 13 (2) Be in a horizontal position during operation;
- 14 (3) Include focused agitation cranial targeting to ensure
15 the breakdown of brain tissue;
- 16 (4) Include a dedicated heated chemical rinse cycle to
17 ensure that the final bones exiting from the vessel
18 are white and free from contaminants that prevent
19 proper drying; and



1 (5) Be operated on human remains only when the remains are
2 wrapped in bioplastic or natural protein-based fibers,
3 including silk, leather, or wool."

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

6 "**§327-32 Administration; duties of health officers.** Every
7 head officer of a hospital, nursing home, correctional facility,
8 funeral parlor, or mortuary and every county medical examiner or
9 coroner and every state or county officer, and every other
10 person who has possession, charge, or control of any unclaimed
11 dead human body that may [~~be cremated~~] undergo cremation as
12 defined in section 531B-2 at public expense pursuant to section
13 346-15 shall:

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

18 (2) Submit in writing to the department of human services
19 a description of the efforts used in making the
20 determination that the dead human body is unclaimed in



1 accordance with section 346-15, if payment for
2 cremation is sought.

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

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

8 "**§327-36 Final disposition of anatomical gifts.** A person
9 or procurement organization that holds a dead human body as a
10 result of an anatomical gift shall, when the body is deemed of
11 no further value for purposes of transplantation, therapy,
12 research, or education, be responsible for the final disposition
13 of that dead human body and all of its parts, except those parts
14 used for transplantation. The person or procurement
15 organization shall dispose of the remains by cremation[7] as
16 defined in section 531B-2, except as otherwise provided in
17 section 327-14 or as directed in a document of gift, subject to
18 any required disposition permits."

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

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



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

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

19 "(e) For the purposes of this section, "unclaimed dead
20 human body" means the remains of any deceased person for whom no
21 one has assumed responsibility for disposition and no legally



1 responsible individual has been identified. Pursuant to section
2 327-32, the department shall review the written description of
3 the efforts used in making the determination that a dead human
4 body is unclaimed and approve the determination for purposes of
5 payment of the mortuary [~~and~~], crematory, or hydrolysis facility
6 services, if it meets the department's requirements."

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

9 1. By adding six new definitions to be appropriately
10 inserted and to read:

11 "Conventional cremation" means the irreversible process of
12 reducing human remains to bone fragments or skeletal remains
13 through heat and evaporation.

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

18 "Cremation" means conventional cremation or water
19 cremation.

20 "Hydrolysis equipment" means the equipment, machinery, or
21 unit specifically designed and built for the purposes of



1 processing human remains using water cremation. "Hydrolysis
2 equipment" includes prebuilt and prepackaged hydrolysis units or
3 equipment that is erected on site of the facility.

4 "Hydrolysis facility" means a structure, room, or other
5 space in a building or structure containing hydrolysis
6 equipment, to be used for water cremation.

7 "Water cremation" means alkaline hydrolysis, which is the
8 reduction of human remains to bone fragments and essential
9 elements in a using heat, pressure, water, and base chemical
10 agents."

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

12 "Crematory" means a structure containing a furnace used or
13 intended to be used for the conventional cremation of human
14 remains."

15 SECTION 7. 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[+], or hydrolysis facility; provided that if
6 the charges against the person are dismissed, or if
7 the person is acquitted of the charges, the right of
8 disposition is returned to that person, unless the
9 dismissal or acquittal occurs after the final
10 disposition has been completed;
- 11 (2) The person does not exercise the person's right of
12 disposition within five days of notification of the
13 decedent's death or within seven days of the
14 decedent's death, whichever is earlier;
- 15 (3) The person and the decedent are spouses, civil union
16 partners, or reciprocal beneficiaries, and at the time
17 of the decedent's death, proceedings for annulment,
18 divorce, or separation had been initiated or a
19 declaration for termination of the reciprocal
20 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 8. 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, or hydrolysis facility with
16 custody of the remains may file a petition asking the
17 probate court to make a determination in the matter;
18 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, ~~[or]~~
19 crematory, or hydrolysis facility shall not be liable for
20 refusing to accept the remains, to inter or otherwise dispose of
21 the remains of the decedent, or complete the arrangements for



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

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

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

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

20 A funeral establishment, cemetery, mortuary, [~~or~~]
21 crematory, or hydrolysis facility and its officers, directors,



1 managers, members, partners, or employees may not be held
2 criminally or civilly liable for choosing not to bring an action
3 under this section."

4 SECTION 9. Section 531B-8, Hawaii Revised Statutes, is
5 amended by amending subsections (b) and (c) to read as follows:

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

14 (c) The funeral establishment, cemetery, mortuary, [~~or~~]
15 crematory, or hydrolysis facility shall have no responsibility
16 to verify the identity of the decedent or contact or
17 independently investigate the existence of any person who may
18 have a right of disposition. If there is more than one person
19 in the same priority class pursuant to section 531B-4 and the
20 funeral establishment, cemetery, mortuary, [~~or~~] crematory, or
21 hydrolysis facility has no knowledge of any objection by other



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

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

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

- 15 (1) The funeral director or manager:
 - 16 (A) Has no knowledge that any of the persons
 - 17 described in section 531B-4(a)(1)
 - 18 through [(a)(10)] exist;
 - 19 (B) Has knowledge that the person or persons who may
 - 20 or do have the right of disposition cannot be

1 found after reasonable inquiry or reasonable
2 attempts to contact; or
3 (C) Has knowledge that the person or persons who may
4 or do have the right of disposition have lost
5 this right pursuant to section 531B-6; and
6 (2) The appropriate public authority fails to assume
7 responsibility for disposition of the remains within
8 thirty-six hours after having been given written
9 notice of the decedent's death. Written notice may be
10 given by hand delivery, certified mail, facsimile
11 transmission, or electronic mail transmission."

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

14 " ~~[+]~~§531B-10~~[+]~~ **Disposition of unclaimed cremated remains.**
15 Whenever any cremated remains have been in the lawful possession
16 of any funeral establishment, cemetery, mortuary, ~~[or]~~
17 crematory, or hydrolysis facility for sixty or more days, and
18 the person entitled under law to the right of disposition fails,
19 neglects, or refuses to take custody of the cremated remains or
20 direct the disposition, the funeral establishment, cemetery,
21 mortuary, ~~[or]~~ crematory, or hydrolysis facility with lawful



1 possession of the cremated remains may dispose of the remains by
2 any manner that is not inconsistent with any law of the State."

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

5 "[+]§531B-11[+] **Immunity.** No funeral establishment,
6 cemetery, mortuary, [~~or~~] crematory, or hydrolysis facility or
7 any of its officers, directors, members, partners, funeral
8 directors, managers, or employees who reasonably rely in good
9 faith upon the instructions of an individual claiming the right
10 of disposition shall be subject to criminal or civil liability
11 or administrative or disciplinary action for carrying out the
12 disposition of the remains in accordance with the instructions."

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

15 "**§841-10 Decent burial.** When any coroner or deputy
16 coroner takes an inquest upon the dead body of a stranger or
17 indigent person or, being called for that purpose, does not
18 think it necessary, on view of the body, that any inquest should
19 be taken, the coroner or deputy coroner shall cause the body to
20 be decently buried or [~~cremated.~~] undergo cremation as defined
21 in section 531B-2. A burial-transit permit authorizing a burial



1 or cremation shall be secured from the local agent of the
2 department of health by the person in charge of [~~such~~] the
3 burial or cremation."

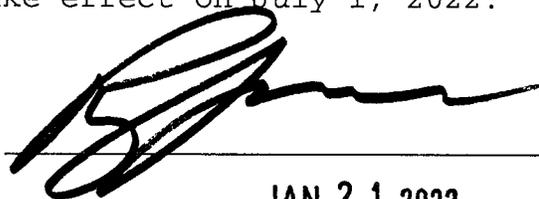
4 SECTION 14. This Act does not affect rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun before its effective date.

7 SECTION 15. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 16. This Act shall take effect on July 1, 2022.

10

INTRODUCED BY:



JAN 21 2022



H.B. NO. 1894

Report Title:

DCCA; Human Remains; Alkaline Hydrolysis; Water Cremation

Description:

Accommodates the use of both traditional Hawaiian burial practices and environmentally-friendly burial practices by including water cremation in the treatment and disposal of human remains.

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