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# A BILL FOR AN ACT

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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 an  
2       increased interest in traditional native Hawaiian practices for  
3       burials amongst native Hawaiians and non-native Hawaiians. The  
4       cultural significance of iwi kupuna, or ancestral bones, is  
5       deeply rooted in native Hawaiian oral traditions, language, and  
6       culture. Native Hawaiian burial traditions acknowledge the  
7       natural cycles of life and death, and kupuna offer spiritual  
8       sustenance to present generations. Traditional native Hawaiian  
9       burials include the practices for treatment of human remains,  
10      which involve reducing the remains to its skeletal components  
11      and interring the iwi in a kapa or lauhala container. The  
12      legislature finds that these traditional native Hawaiian burials  
13      play a critical role in native Hawaiian culture and should be  
14      encouraged to promote greater cultural preservation.

15      The legislature also finds that Hawaiian burial practices  
16      are protected by law. Yet, the absence of legislation  
17      permitting the use of technology that would enable those



1 practices in a manner consistent with contemporary health and  
2 environmental regulations has in effect prevented native  
3 Hawaiians from exercising that customary right. This  
4 legislation addresses that void, and in so doing also makes  
5 available to the wider community, the very real environmental  
6 benefits of reduced carbon emissions and significantly lower  
7 energy use from water cremation. As the planet faces an  
8 existential threat due to the climate crisis, this legislation  
9 is particularly timely.

10 The legislature further finds that a process called water  
11 cremation, or alkaline hydrolysis, provides a cleaner, gentler,  
12 and more eco-friendly alternative to flame cremation for the  
13 treatment of remains that will benefit both those who seek to  
14 utilize traditional native Hawaiian burial techniques as well as  
15 those who want an environmentally-friendly cremation option for  
16 themselves or their loved ones. Water cremation has been used  
17 by leading institutions like the Mayo Clinic in Rochester,  
18 Minnesota, and by the University of California at Los Angeles  
19 School of Medicine for over fifteen years, and has been approved  
20 for use in twenty-one states across the nation.



1           In 2018, Hawaii had more than eight thousand five hundred  
2 flame cremations, releasing 4.5 million pounds of carbon dioxide  
3 into the atmosphere. Water cremation, which uses a base  
4 solution of ninety-five per cent water and five per cent  
5 potassium hydroxide and to accelerate decomposition, requires  
6 one-eighth the energy of a flame crematory and results in  
7 seventy-five per cent lower carbon emissions. Water cremation  
8 destroys pathogens, protects the operator, and returns a safe  
9 by-product to the family. No DNA is left in the water or  
10 cremated remains. No mercury amalgam is emitted into the  
11 atmosphere. There is no groundwater contamination from  
12 cemeteries and no need to extract pacemakers and other implants  
13 prior to cremation. Additionally, if desired, many of the  
14 implants can be recycled.

15           The purpose of this Act is to include the use of  
16 traditional native Hawaiian burial practices including water  
17 cremation in the treatment and disposal of human remains.

18           SECTION 2. Chapter 531B-2, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:



1        "§531B-       Hydrolysis facilities; license required.       (a)

2       Any hydrolysis facility in the State shall be subject to  
3       licensing requirements established by the department.

4       (b) Operators of hydrolysis facilities shall undergo  
5       crematory or alkaline hydrolysis operator training pursuant to  
6       standards established by the department and hold a valid license  
7       or certificate issued by the department."

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

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

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



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

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

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

**"§327-36 Final disposition of anatomical gifts.** A person or procurement organization that holds a dead human body as a result of an anatomical gift shall, when the body is deemed of no further value for purposes of transplantation, therapy, research, or education, be responsible for the final disposition of that dead human body and all of its parts, except those parts used for transplantation. The person or procurement organization shall dispose of the remains by cremation<sup>[7]</sup> which may include alkaline hydrolysis, except as otherwise provided in section 327-14 or as directed in a document of gift, subject to any required disposition permits."



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

1. By amending subsection (b) to read:

"(b) All unclaimed dead human bodies shall ~~[be cremated.]~~ undergo cremation, which may include alkaline hydrolysis. The department may bear the cost of the mortuary ~~[and]~~, crematory, or alkaline hydrolysis services for unclaimed dead human bodies furnished by any licensed provider of mortuary or crematory services. Payments for ~~[mortuary and crematory]~~ these services shall be made to the extent of the cost, or in the sum of \$800 in total, whichever is less, for each unclaimed dead human body. Individuals who have possession, charge, or control of any unclaimed dead human body to ~~[be cremated]~~ undergo cremation or alkaline hydrolysis at public expense shall have sixty days from the date of the deceased's death to submit in writing to the department its determination that the dead human body is unclaimed and its application for payment for cremation~~[-]~~ or alkaline hydrolysis. The county medical examiners or coroners shall have no time limitation by which to submit their written determination that the dead human body is unclaimed and their



1 application for payment for cremation[?] or alkaline  
2 hydrolysis."

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

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

13 SECTION 6. Section 531B-2, Hawaii Revised Statutes, is  
14 amended by adding five new definitions to be appropriately  
15 inserted and to read as follows:

16 "Alkaline hydrolysis" or "water cremation" means the  
17 reduction of human remains to bone fragments and essential  
18 elements in a licensed hydrolysis facility using heat, pressure,  
19 water, and base chemical agents.

20 "Cremated remains" means all human remains recovered after  
21 the completion of the cremation or alkaline hydrolysis, which



1 may include the residue of any foreign matter such as casket  
2 material, bridgework, or eyeglasses that were cremated with the  
3 human remains or that remain after alkaline hydrolysis.

4 "Cremation" means the irreversible process of reducing  
5 human remains to bone fragments or skeletal remains through heat  
6 and evaporation.

7 "Hydrolysis equipment" means the equipment, machinery, or  
8 unit specifically designed and built for the purposes of  
9 processing human remains using alkaline hydrolysis. "Hydrolysis  
10 equipment" includes prebuilt and prepackaged hydrolysis units or  
11 equipment that is erected on site of the facility and:

12 (1) Operates at a temperature of 302 degrees Fahrenheit  
13 (150 degrees Celsius) to guarantee complete  
14 sterilization of the liquid and bones that can be  
15 validated using *Geobacillus stearothermophilus* spores  
16 at 10<sup>6</sup> colony forming units per milliliter;

17 (2) Operates one hundred per cent of the time in a  
18 horizontal position;

19 (3) Includes focused agitation cranial targeting to ensure  
20 breakdown of brain tissue;





(4) Includes a dedicated heated chemical rinse cycle to ensure that bones are white and free from contaminants that prevent proper drying, post cycle; and

(5) Wraps human remains only in bioplastic or natural protein-based fibers such as silk, leather or wool.

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

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

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

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

(1) The person is charged with murder or manslaughter in connection with the decedent's death, and the charges are known to the funeral director or manager of the funeral establishment, cemetery, mortuary, ~~[or]~~ crematory~~[+]~~, or hydrolysis facility; provided that if the charges against the person are dismissed, or if



1 the person is acquitted of the charges, the right of  
2 disposition is returned to that person, unless the  
3 dismissal or acquittal occurs after the final  
4 disposition has been completed;

5 (2) The person does not exercise the person's right of  
6 disposition within five days of notification of the  
7 decedent's death or within seven days of the  
8 decedent's death, whichever is earlier;

9 (3) The person and the decedent are spouses, civil union  
10 partners, or reciprocal beneficiaries, and at the time  
11 of the decedent's death, proceedings for annulment,  
12 divorce, or separation had been initiated or a  
13 declaration for termination of the reciprocal  
14 beneficiary relationship had been filed; or

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

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



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

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

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

17       (A) The reasonableness and practicality of the  
18 proposed funeral arrangements and disposition;

19       (B) The degree of the personal relationship between  
20 the decedent and each of the persons claiming the  
21 right of disposition;



- 1 (C) The desires of the person or persons who are  
2 ready, able, and willing to pay the cost of the  
3 funeral arrangements and disposition;
- 4 (D) The convenience and needs of other families and  
5 friends wishing to pay respects;
- 6 (E) The desires of the decedent; and
- 7 (F) The degree to which the funeral arrangements  
8 would allow maximum participation by all wishing  
9 to pay respect.

10 (c) In the event of a dispute regarding the right of  
11 disposition, a funeral establishment, cemetery, mortuary, [ex]  
12 crematory, or hydrolysis facility shall not be liable for  
13 refusing to accept the remains, to inter or otherwise dispose of  
14 the remains of the decedent, or complete the arrangements for  
15 the final disposition of the remains until it receives a court  
16 order or other written agreement signed by the parties in the  
17 disagreement that the dispute has been resolved or settled.

18 If the funeral establishment, cemetery, mortuary, [ex]  
19 crematory, or hydrolysis facility retains the remains for final  
20 disposition while the parties are in disagreement, it may embalm  
21 or refrigerate and shelter the body, or both, while awaiting the



1 final decision of the probate court and may add the cost of  
2 embalming or refrigeration and sheltering to the cost of final  
3 disposition.

4 If a funeral establishment, cemetery, mortuary, [✗]  
5 crematory, or hydrolysis facility brings an action under this  
6 section, it may add the legal fees and court costs associated  
7 with a petition under this section to the cost of final  
8 disposition.

9 This section shall not be construed to require or impose a  
10 duty upon a funeral establishment, cemetery, mortuary, [✗]  
11 crematory, or hydrolysis facility to bring an action under this  
12 section.

13 A funeral establishment, cemetery, mortuary, [✗]  
14 crematory, or hydrolysis facility and its officers, directors,  
15 managers, members, partners, or employees may not be held  
16 criminally or civilly liable for choosing not to bring an action  
17 under this section."

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

20 "(b) A funeral establishment, cemetery, mortuary, [✗]  
21 crematory, or hydrolysis facility shall have the right to rely



1 on the funeral service agreement, cremation authorization form,  
2 or any other authorization form, including the identification of  
3 the decedent, and shall have the authority to carry out the  
4 instructions of the person or persons whom the funeral  
5 establishment, cemetery, mortuary, or crematory reasonably  
6 believes to hold the right of disposition.

7 (c) The funeral establishment, cemetery, mortuary, ~~[or]~~  
8 crematory, or hydrolysis facility shall have no responsibility  
9 to verify the identity of the decedent or contact or  
10 independently investigate the existence of any person who may  
11 have a right of disposition. If there is more than one person  
12 in the same priority class pursuant to section 531B-4 and the  
13 funeral establishment, cemetery, mortuary, ~~[or]~~ crematory, or  
14 hydrolysis facility has no knowledge of any objection by other  
15 members of the priority class, it may rely on and act according  
16 to the instructions of the first person in the priority class to  
17 make funeral and disposition arrangements; provided that no  
18 other person in the priority class provides written notice to  
19 the funeral establishment, cemetery, mortuary, ~~[or]~~ crematory,  
20 or hydrolysis facility of that person's objections."



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

"~~[§]§531B-9~~ Authority to direct and control disposition; recovery of reasonable expenses. (a) A funeral director or manager of a funeral establishment, cemetery, mortuary, ~~[or]~~ crematory, or hydrolysis facility shall have complete authority to direct and control the final disposition and disposal of a decedent's remains and to proceed under this chapter to recover reasonable charges for the final disposition and disposal if:

(1) The funeral director or manager:

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

(B) Has knowledge that the person or persons who may or do have the right of disposition cannot be found after reasonable inquiry or reasonable attempts to contact; or



1 (C) Has knowledge that the person or persons who may  
2 or do have the right of disposition have lost  
3 this right pursuant to section 531B-6; and

4 (2) The appropriate public authority fails to assume  
5 responsibility for disposition of the remains within  
6 thirty-six hours after having been given written  
7 notice of the decedent's death. Written notice may be  
8 given by hand delivery, certified mail, facsimile  
9 transmission, or electronic mail transmission."

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

12 "[~~§~~§531B-10[~~§~~] **Disposition of unclaimed cremated remains.**

13 Whenever any cremated remains have been in the lawful possession  
14 of any funeral establishment, cemetery, mortuary, [~~or~~]  
15 crematory, or hydrolysis facility for sixty or more days, and  
16 the person entitled under law to the right of disposition fails,  
17 neglects, or refuses to take custody of the cremated remains or  
18 direct the disposition, the funeral establishment, cemetery,  
19 mortuary, [~~or~~] crematory, or hydrolysis facility with lawful  
20 possession of the cremated remains may dispose of the remains by  
21 any manner that is not inconsistent with any law of the State."





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

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

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

"§841-10 Decent burial. When any coroner or deputy coroner takes an inquest upon the dead body of a stranger or indigent person or, being called for that purpose, does not think it necessary, on view of the body, that any inquest should be taken, the coroner or deputy coroner shall cause the body to be decently buried or ~~[cremated.]~~ undergo cremation or alkaline hydrolysis. A burial-transit permit authorizing a burial ~~[ex]~~, cremation, or alkaline hydrolysis shall be secured from the local agent of the department of health by the person in charge



1 of [~~such~~] the burial [~~or~~], cremation [~~-~~], or alkaline  
2 hydrolysis."

3 SECTION 14. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect on January 1, 2050.



**Report Title:**

Human Remains; Alkaline Hydrolysis; Water Cremation

**Description:**

Includes the use of traditional native Hawaiian burial practices in the treatment and disposal of human remains, including the use of water cremation or alkaline hydrolysis. Requires alkaline hydrolysis facilities to be licensed by the Department of Health. Requires alkaline hydrolysis facility operators to be licensed and undergo alkaline hydrolysis operator training. Effective 1/1/2050. (SD1)

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