
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 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 additionally finds that these traditional native
13 Hawaiian burials play a critical role in native Hawaiian culture
14 and should be encouraged to promote greater cultural
15 preservation.

16 The legislature also finds that Hawaiian burial practices
17 are protected by law. Yet, the absence of legislation



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

11 The legislature further finds that a process called water
12 cremation, or alkaline hydrolysis, provides a cleaner, gentler,
13 and more eco-friendly alternative to flame cremation for the
14 treatment of remains that will benefit both those who seek to
15 utilize traditional native Hawaiian burial techniques as well as
16 those who want an environmentally-friendly cremation option for
17 themselves or their loved ones. Water cremation has been used
18 by leading institutions like the Mayo Clinic in Rochester,
19 Minnesota, and by the University of California at Los Angeles
20 School of Medicine for over fifteen years, and has been approved
21 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, Hawaii Revised Statutes, is
19 amended by adding two new sections to be appropriately
20 designated and to read as follows:



1 "§531B- Hydrolysis facilities; certification required.

2 Any hydrolysis facility in the State shall be subject to
3 certification requirements established by the department of
4 health.

5 §531B- Hydrolysis facilities; operational requirements.

6 (a) Operators of a hydrolysis facility shall undergo crematory
7 or alkaline hydrolysis operator training and shall comply with
8 title 11, chapter 22, Hawaii Administrative Rules, as adopted by
9 the department of health regarding mortuaries, cemeteries,
10 embalmers, undertakers, and mortuary authorities.

11 (b) The sterile wastewater from a hydrolysis facility
12 shall be discharged into the sewer system as approved by the
13 appropriate county."

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

16 "§327-32 Administration; duties of health officers. Every
17 head officer of a hospital, nursing home, correctional facility,
18 funeral parlor, or mortuary and every county medical examiner or
19 coroner and every state or county officer, and every other
20 person who has possession, charge, or control of any unclaimed
21 dead human body that may [~~be-cremated~~] undergo cremation



1 including alkaline hydrolysis at public expense pursuant to
2 section 346-15 shall:

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

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

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

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

17 "**§327-36 Final disposition of anatomical gifts.** A person
18 or procurement organization that holds a dead human body as a
19 result of an anatomical gift shall, when the body is deemed of
20 no further value for purposes of transplantation, therapy,
21 research, or education, be responsible for the final disposition



1 of that dead human body and all of its parts, except those parts
2 used for transplantation. The person or procurement
3 organization shall dispose of the remains by cremation~~[7]~~ which
4 may include alkaline hydrolysis, except as otherwise provided in
5 section 327-14 or as directed in a document of gift, subject to
6 any required disposition permits."

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

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

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



1 department its determination that the dead human body is
2 unclaimed and its application for payment for cremation[-] or
3 alkaline hydrolysis. The county medical examiners or coroners
4 shall have 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[-] or alkaline
7 hydrolysis."

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

9 "(e) For the purposes of this section, "unclaimed dead
10 human body" means the remains of any deceased person for whom no
11 one has assumed responsibility for disposition and no legally
12 responsible individual has been identified. Pursuant to section
13 327-32, the department shall review the written description of
14 the efforts used in making the determination that a dead human
15 body is unclaimed and approve the determination for purposes of
16 payment of the mortuary [~~and~~], crematory, or alkaline hydrolysis
17 services, if it meets the department's requirements."

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



1 "Alkaline hydrolysis" or "water cremation" means the
2 reduction of human remains to bone fragments and essential
3 elements in a licensed hydrolysis facility using heat, pressure,
4 water, and base chemical agents.

5 "Cremated remains" means all human remains recovered after
6 the completion of the cremation or alkaline hydrolysis, which
7 may include the residue of any foreign matter such as casket
8 material, bridgework, or eyeglasses that were cremated with the
9 human remains or that remain after alkaline hydrolysis.

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

13 "Hydrolysis equipment" means the equipment, machinery, or
14 unit specifically designed and built for the purposes of
15 processing human remains using alkaline hydrolysis. "Hydrolysis
16 equipment" includes prebuilt and prepackaged hydrolysis units or
17 equipment that is erected on site of the facility and:

- 18 (1) Operates at a temperature of 302 degrees Fahrenheit
19 (150 degrees Celsius) to guarantee complete
20 sterilization of the liquid and bones that can be



1 validated using *Geobacillus stearothermophilus* spores
2 at 10⁶ colony forming units per milliliter;

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

5 (3) Includes focused agitation cranial targeting to ensure
6 breakdown of brain tissue;

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

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

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

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, [øx]
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, [ex]
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 reasonably
13 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 its title and subsection (a) to read as
9 follows:

10 "[+]§531B-9[+] Authority to direct and control
11 disposition; recovery of reasonable expenses. (a) A funeral
12 director or manager of a funeral establishment, cemetery,
13 mortuary, ~~[or]~~ crematory, or hydrolysis facility shall have
14 complete authority to direct and control the final disposition
15 and disposal of a decedent's remains and to proceed under this
16 chapter to recover reasonable charges for the final disposition
17 and disposal if:

18 (1) The funeral director or manager:

19 (A) Has no knowledge that any of the persons

20 described in section 531B-4(a)(1) through

21 [+] (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

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

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

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

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



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 [~~cremated.~~] undergo
2 cremation or alkaline hydrolysis. A burial-transit permit
3 authorizing a burial [~~or~~], cremation, or alkaline hydrolysis
4 shall be secured from the local agent of the department of
5 health by the person in charge of [~~such~~] the burial [~~or~~],
6 cremation[~~-~~], or alkaline hydrolysis."

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

9 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 certified by the Department of Health. Requires alkaline hydrolysis facility operators to undergo alkaline hydrolysis operator training and comply with certain Department of Health Administrative Rules. Requires sterile wastewater to be discharged into the sewer system as approved by the appropriate county. Effective 1/1/2050. (SD2)

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