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# 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 hydrolysis facility in the State handling human remains shall be  
2 subject to the requirements for funeral establishments and  
3 mortuaries.

4       § -3 Hydrolysis equipment. Hydrolysis equipment used at  
5 any hydrolysis facility in the State shall:

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



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 in a using heat, pressure, water, and base chemical  
14 agents."

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

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

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



1 " ~~[+]~~ §531B-6 ~~[+]~~ Forfeiture of right to direct disposition.

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

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

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

20 (3) The person and the decedent are spouses, civil union  
21 partners, or reciprocal beneficiaries, and at the time



1 of the decedent's death, proceedings for annulment,  
2 divorce, or separation had been initiated or a  
3 declaration for termination of the reciprocal  
4 beneficiary relationship had been filed; or

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

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

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

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



1 probate court to make a determination in the matter;  
2 and

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

7 (A) The reasonableness and practicality of the  
8 proposed funeral arrangements and disposition;

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

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

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

17 (E) The desires of the decedent; and

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



1 (c) In the event of a dispute regarding the right of  
2 disposition, a funeral establishment, cemetery, mortuary, [œ]r]  
3 crematory, or hydrolysis facility shall not be liable for  
4 refusing to accept the remains, to inter or otherwise dispose of  
5 the remains of the decedent, or complete the arrangements for  
6 the final disposition of the remains until it receives a court  
7 order or other written agreement signed by the parties in the  
8 disagreement that the dispute has been resolved or settled.

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

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



1 This section shall not be construed to require or impose a  
2 duty upon a funeral establishment, cemetery, mortuary, [Ø] ~~crematory,~~  
3 or hydrolysis facility to bring an action under this  
4 section.

5 A funeral establishment, cemetery, mortuary, [Ø] ~~crematory,~~  
6 or hydrolysis facility and its officers, directors,  
7 managers, members, partners, or employees may not be held  
8 criminally or civilly liable for choosing not to bring an action  
9 under this section."

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

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

20 (c) The funeral establishment, cemetery, mortuary, [Ø] ~~crematory,~~  
21 or hydrolysis facility shall have no responsibility



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

13 SECTION 10. 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, or hydrolysis  
17 facility shall have complete authority to direct and control the  
18 final disposition and disposal of a decedent's remains and to  
19 proceed under this chapter to recover reasonable charges for the  
20 final disposition and disposal if:

21 (1) The funeral director or manager:



- 1 (A) Has no knowledge that any of the persons  
2 described in section 531B-4(a)(1) through  
3 [‡] (a)(10) [‡] exist;
- 4 (B) Has knowledge that the person or persons who may  
5 or do have the right of disposition cannot be  
6 found after reasonable inquiry or reasonable  
7 attempts to contact; or
- 8 (C) Has knowledge that the person or persons who may  
9 or do have the right of disposition have lost  
10 this right pursuant to section 531B-6; and
- 11 (2) The appropriate public authority fails to assume  
12 responsibility for disposition of the remains within  
13 thirty-six hours after having been given written  
14 notice of the decedent's death. Written notice may be  
15 given by hand delivery, certified mail, facsimile  
16 transmission, or electronic mail transmission."
- 17 SECTION 11. Section 531B-10, Hawaii Revised Statutes, is  
18 amended to read as follows:
- 19 " [‡] §531B-10 [‡] **Disposition of unclaimed cremated remains.**  
20 Whenever any cremated remains have been in the lawful possession  
21 of any funeral establishment, cemetery, mortuary, [⊗]





1 crematory, or hydrolysis facility for sixty or more days, and  
2 the person entitled under law to the right of disposition fails,  
3 neglects, or refuses to take custody of the cremated remains or  
4 direct the disposition, the funeral establishment, cemetery,  
5 mortuary, ~~[œ]~~ crematory, or hydrolysis facility with lawful  
6 possession of the cremated remains may dispose of the remains by  
7 any manner that is not inconsistent with any law of the State."

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

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

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

20 "§841-10 Decent burial. When any coroner or deputy  
21 coroner takes an inquest upon the dead body of a stranger or



1 indigent person or, being called for that purpose, does not  
2 [~~think~~] determine it necessary, on view of the body, that any  
3 inquest should be taken, the coroner or deputy coroner shall  
4 cause the body to be decently buried or [~~cremated.~~] undergo  
5 cremation as defined in section 531B-2. A burial-transit permit  
6 authorizing a burial or cremation shall be secured from the  
7 local agent of the department of health by the person in charge  
8 of [~~such~~] the burial or cremation."

9 SECTION 14. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date.

12 SECTION 15. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

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



**Report Title:**

DOH; Human Remains; Alkaline Hydrolysis; Water Cremation

**Description:**

Accommodates the use of both traditional Native Hawaiian burial practices and environmentally-friendly burial practices by including water cremation in the treatment and disposal of human remains. (SD1)

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