

ACT 22

S.B. NO. 2711

A Bill for an Act Relating to Historic Properties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that the full recognition and protection of the unique cultural values of the multi-ethnic peoples of Hawaii are directly affected by historic preservation decisions. Of particular sensitivity to each group is the impact and response of such governmental decisions on the cultural values related to the treatment and protection of burials, including those in historic cemeteries.

All human skeletal remains and burial sites within the State of Hawaii are entitled to equal protection under the laws regardless of race, religion, or cultural origin. The public has a vital interest in the proper disposition of the bodies of its deceased members, which is in the nature of a sacred trust for the benefit of all, and therefore the legislature reaffirms the common law rule that a land owner knowingly in possession of human skeletal remains cannot own the remains but merely holds the same in trust for descendants, who have the right to possession for purposes of proper cultural preservation or reinterment.

The purpose of this Act is to augment current procedures relating to the proper care and protection of burial sites found in cemeteries.

SECTION 2. Section 6E-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“[§6E-41] Cemeteries; removal or redesignation.¹ (a) Any person removing or redesignating any cemetery shall comply with the following requirements:

- (1) Publish a notice in a newspaper of general circulation in the State, requesting persons having information concerning the cemetery or persons buried in it to report that information to the department;
- (2) Photograph the cemetery generally, and take separate photographs of all headstones located in the cemetery;

- (3) Turn over to the department all photographs and any other relevant historical records; [and]
- (4) Move all headstones to the place of reinterment[.]; and
- (5) Obtain the written concurrence of the department prior to any removal or redesignation if the cemetery has existed for more than fifty years.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 17, 1990.)

Note

1. So in original.