

A Bill for an Act Relating to Disposition of Dead Human Bodies.

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

SECTION 1. The legislature finds that the roles and responsibilities of state agencies and custodians of unclaimed dead human bodies require clarification. Chapter 327, part II, Hawaii Revised Statutes, which authorizes the department of health to provide unclaimed dead human bodies to a university or other institution for educational or research purposes, is in direct contradiction with the Uniform Anatomical Gifts Act, chapter 327, part I, Hawaii Revised Statutes.

The purpose of this Act is to repeal the authority of the department of health to deliver or distribute an unclaimed dead human body to a university, hospital, or institution for medical education and research purposes, and to clarify the responsibilities of the person who has possession, charge, or control of an unclaimed dead human body with respect to gathering and providing information to state agencies.

SECTION 2. Chapter 327, Hawaii Revised Statutes, is amended by amending the title of part II to read as follows:

“PART II. [UNCLAIMED] DISPOSITION OF DEAD HUMAN BODIES”

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

~~“§327-32 Administration; duties of health officers[, etc]. [(a) The department of health shall administer this part and may provide by rules and regulations, promulgated pursuant to chapter 91, for the distribution and use of unclaimed bodies as authorized in section 327-31.~~

~~(b) The department upon receipt of notice of an unclaimed body shall deliver the body to a university, hospital, or institution for the purposes authorized in section 327-31.~~

~~(e) Every head officer of a hospital, nursing home, correctional facility, funeral parlor, or mortuary and every county medical examiner or coroner and every state or county officer, and every other person who has possession, charge, or control of any unclaimed dead human body [required to be buried] that may be cremated at public expense pursuant to section 346-15 shall:~~

- ~~(1) Exercise due diligence to notify the relatives, friends of the decedent[;], any representative of a fraternal society of which the deceased was a member, and any legally responsible party;~~
- ~~(2) [In the absence of any known relative or friend of the deceased or any representative of a fraternal society of which the deceased was a member, who desires to direct the disposition of the remains in a manner other than in this part provided, notify the department not later than immediately after the end of twenty-four hours following the death, stating, whenever possible, the name, age, sex, and cause of death of the decedent.] 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.~~

~~[(d) Every head officer of a hospital, nursing home, or correctional facility in which a decedent was a patient or inmate at the time of death and whose body is unclaimed and required to be buried at public expense shall transmit to the department a medical history of the decedent for the purpose of identification and permanent record, which records shall be open to inspection by any state or county public official or prosecuting attorney.]~~

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 bodies retained for medical education and research purposes. A university, hospital, or institution ~~[which] that~~ holds ~~[an unclaimed] a dead human~~ body ~~[as provided in this part]~~ shall, when the body is deemed of no further value for medical education and research purposes, dispose of the remains by cremation, except as otherwise provided in section ~~[327-34.] 327-14.~~”

SECTION 5. Section 327-38, Hawaii Revised Statutes, is amended to read as follows:

“§327-38 Prohibitions; penalty. (a) No person shall give, offer, or promise any money or other things of value to any other person in consideration of receiving a dead human body.

(b) No person shall provide a dead human body to any other person in consideration of any money or other things of value, or any offer or promise of money or other things of value.

(c) No person shall display a dead human body for commercial purposes; provided that this subsection shall not apply to a display of a dead human body that:

- (1) Has been dead for more than eighty years;
- (2) Consists solely of human teeth or hair;
- (3) Is part of the ordinary display or viewing of the deceased at a funeral establishment or part of a similar funeral or memorial service;
- (4) Is an object of religious veneration;
- (5) Is an object of research or educational display in the possession of any federal, state, or county agency, any public or private institution of higher learning accredited under federal or state law, or any private entity in receipt of a federal, state, or county grant for health-related research; or
- (6) Is in the possession of a museum facility.

~~[(d) No university, hospital, or institution shall use a body received under this part for any purpose except medical education and research.]~~

~~[(e)] (d)~~ Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

~~[(f)] (e)~~ As used in this section:

“Dead human body” means:

- (1) An individual who has sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem; provided that the determination of death be made in accordance with accepted medical standards; and

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(2) Includes plastinated human bodies or remains, including tissue, organs, and other body parts, that are preserved from decay by replacing the water and fats in the human remains with a polymer.

“Museum facility” means a public or private nonprofit institution that:

- (1) Is accredited by the American Association of Museums or is part of an accredited college or university;
- (2) Is organized on a permanent basis for essentially educational or aesthetic purposes; and
- (3) Owns or uses tangible objects, cares for those objects, and exhibits them to the general public on a regular basis.”

SECTION 6. Section 327-31, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 327-33, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 327-34, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 327-35, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 327-37, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved April 26, 2012.)

Note

- 1. Edited pursuant to HRS §23G-16.5.