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## A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 6E-43, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§6E-43 Prehistoric and historic burial sites.** (a) At  
4 any site, other than a known, maintained, actively used cemetery  
5 where human skeletal remains are discovered or are known to be  
6 buried and appear to be over fifty years old, the remains and  
7 their associated burial goods shall not be moved without the  
8 department's approval.

9           (b) All burial sites are significant and shall be  
10 preserved in place until compliance with this section is met,  
11 except as provided in section 6E-43.6. The appropriate island  
12 burial council shall determine whether preservation in place or  
13 relocation of previously identified native Hawaiian burial sites  
14 is warranted, following criteria [~~which~~] that shall include  
15 recognition that burial sites of high preservation value, [~~such~~  
16 ~~as~~] including areas with a concentration of skeletal remains, or  
17 prehistoric or historic burials associated with important  
18 individuals and events, or areas that are within a context of



1 historic properties, or have known lineal descendants, shall  
2 receive greater consideration for preservation in place. The  
3 criteria shall be developed by the department in consultation  
4 with the councils, office of Hawaiian affairs, representatives  
5 of development and large property owner interests, and  
6 appropriate Hawaiian organizations, [~~such as~~] including Hui  
7 Malama I Na Kupuna O Hawai'i Nei, through rules adopted pursuant  
8 to chapter 91. A council's determination shall be rendered  
9 within forty-five days of referral by the department unless  
10 otherwise extended by agreement between the landowner and the  
11 department.

12 (c) Council determinations may be administratively  
13 appealed to a panel composed of three council chairpersons and  
14 three members from the board of land and natural resources as a  
15 contested case pursuant to chapter 91. In addition to the six  
16 members, the chairperson of the board of land and natural  
17 resources shall preside over the contested case and vote only in  
18 the event of a tie.

19 (d) Within ninety days following the final determination,  
20 a preservation or mitigation plan shall be approved by the  
21 department in consultation with any lineal descendants, the



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1    respective council, other appropriate Hawaiian organizations,  
2    and any affected property owner.

3           (e)   Should the burial site prove to be other than  
4    Hawaiian, the department, within thirty days shall determine  
5    whether preservation in place or relocation is warranted, and  
6    within an additional ninety days a preservation or mitigation  
7    plan shall be approved by the department in consultation with  
8    any lineal descendants, appropriate ethnic organizations, and  
9    any affected property owner.

10           (f)   Within ninety days of the approval of a preservation  
11    or mitigation plan, a survey map setting forth the preservation  
12    or mitigation plan shall be prepared and filed by the state land  
13    surveyor with the bureau of conveyance in the manner prescribed  
14    and pursuant to section 502-17."

15           SECTION 2.   Statutory material to be repealed is bracketed  
16    and stricken.   New statutory material is underscored.

17           SECTION 3.   This Act shall take effect upon its approval.

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INTRODUCED BY: *Mele Carroll*

JAN 21 2011



**Report Title:**

Historic Preservation; Burials; Survey Map

**Description:**

Requires state land surveyor to prepare and file with bureau of conveyances a survey map of an approved burial preservation or mitigation plan.

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