
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 Hawaiian practices
3 for burials among Native Hawaiians and non-Hawaiians. The
4 legislature also finds that these traditional Hawaiian burials
5 play a critical role in Hawaiian culture and should be
6 encouraged to promote greater cultural perpetuation.

7 A recognized traditional Hawaiian practice for treatment of
8 a human remains involves reducing the remains to its skeletal
9 remains, known as iwi, and interring the iwi in a kapa or
10 lauhala container. The legislature finds that the traditional
11 Hawaiian treatment of a human remains is safe, feasible, and
12 cost-effective through the use of modern flame crematories or
13 other similar operations.

14 Prioritizing traditional Hawaiian burial techniques,
15 including using a process known as alkaline hydrolysis or water
16 cremation is, in comparison to modern burial techniques, a
17 cleaner, gentler, and more environmentally-friendly process.



1 Modern treatment of human remains often involve chemicals such
2 as embalming fluids which, when buried, can be harmful to the
3 environment as the chemicals will eventually be released into
4 the soil and aquifers. A traditional Hawaiian burial is also
5 more cost effective than modern burial techniques as a smaller
6 burial plot is required and the cost of a casket is avoided.
7 Thus, the decrease in space required for a burial plot will
8 result in an increase in the carrying capacities of cemeteries.

9 The purpose of this Act is to include the use of
10 traditional Hawaiian burial practices in the treatment and
11 disposal of human remains.

12 SECTION 1. Section 327-32, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§327-32 Administration; duties of health officers.** Every
15 head officer of a hospital, nursing home, correctional facility,
16 funeral parlor, or mortuary and every county medical examiner or
17 coroner and every state or county officer, and every other
18 person who has possession, charge, or control of any unclaimed
19 dead human body that may ~~[be cremated]~~ undergo cremation, water
20 cremation, alkaline hydrolysis, or natural organic reduction at
21 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; and

(2) 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.

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 2. Section 327-36, Hawaii Revised Statutes, is
amended to read as follows:

"§327-36 Final disposition of anatomical gifts. A person
or procurement organization that holds a dead human body as a
result of an anatomical gift shall, when the body is deemed of
no further value for purposes of transplantation, therapy,
research, or education, be responsible for the final disposition
of that dead human body and all of its parts, except those parts
used for transplantation. The person or procurement



1 organization shall dispose of the remains by cremation, alkaline
2 hydrolysis, water cremation, or natural organic reduction,
3 except as otherwise provided in section 327-14 or as directed in
4 a document of gift, subject to any required disposition
5 permits."

6 SECTION 3. Section 346-15, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

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



1 to the department its determination that the dead human body is
2 unclaimed and its application for payment for [~~cremation~~] these
3 services. The county medical examiners or coroners shall have
4 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[~~-~~] alkaline hydrolysis,
7 water cremation, or natural organic reduction."

8 SECTION 4. Section 531B-2, Hawaii Revised Statutes, is
9 amended by adding eight new definitions to be appropriately
10 inserted and to read as follows:

11 "Alkaline hydrolysis", "hydrolysis", or "water cremation"
12 means the reduction of human remains to bone fragments and
13 essential elements in a licensed hydrolysis facility using heat,
14 pressure, water, and base chemical agents.

15 "Cremated remains", "cremains", or "ashes" means all human
16 remains recovered after the completion of cremation, which may
17 possibly include the residue of any foreign matter including
18 casket material, bridgework, or eyeglasses that were cremated
19 with the human remains.



1 "Cremation" means the irreversible process of reducing
2 human remains to bone fragments (skeletal remains) through heat
3 and evaporation.

4 "Cremation equipment" means the actual equipment,
5 machinery, or retort unit specifically designed and built for
6 the purposes of cremating human remains while complying with all
7 health, safety, and pollution regulations and requirements in
8 its operation. Cremation equipment includes but is not limited
9 to prebuilt and prepackaged cremation units or cremation
10 equipment that is erected on site of the crematory.

11 "Hydrolysis equipment" means the actual equipment,
12 machinery, or unit specifically designed and built for the
13 purposes of processing human remains while complying with all
14 health, safety, and pollution regulations and requirements in
15 its operation. Hydrolysis equipment includes but is not limited
16 to prebuilt and prepackaged hydrolysis units or equipment that
17 is erected on site of a hydrolysis facility.

18 "Hydrolysis facility" means a structure, room, or other
19 space in a building or structure containing one or more
20 hydrolysis equipment, to be used for alkaline hydrolysis.



1 "Natural organic reduction" means the contained,
2 accelerated conversion of human remains to soil.

3 "Natural organic reduction facility" means a structure,
4 room, or other space in a building or real property where
5 natural organic reduction of a human body occurs."

6 SECTION 5. Section 531B-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[§]~~**§531B-6**~~[§]~~ **Forfeiture of right to direct disposition.**

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

- 13 (1) The person is charged with murder or manslaughter in
14 connection with the decedent's death, and the charges
15 are known to the funeral director or manager of the
16 funeral establishment, cemetery, mortuary, ~~[or]~~
17 crematory~~[,]~~, hydrolysis facility, or natural organic
18 reduction facility; provided that if the charges
19 against the person are dismissed, or if the person is
20 acquitted of the charges, the right of disposition is
21 returned to that person, unless the dismissal or



acquittal occurs after the final disposition has been completed;

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

(3) The person and the decedent are spouses, civil union partners, or reciprocal beneficiaries, and at the time of the decedent's death, proceedings for annulment, divorce, or separation had been initiated or a declaration for termination of the reciprocal beneficiary relationship had been filed; or

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

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

"[+]§531B-7[+] **Disputes.** (a) Any dispute among any of the persons listed in section 531B-4 concerning the right of disposition or priority shall be resolved by the probate court



1 for the county where the decedent resided. The probate court
2 may award the right of disposition to the person determined by
3 the court to be the most fit and appropriate to carry out the
4 right of disposition, and may make decisions regarding the
5 decedent's remains.

6 (b) The following provisions shall apply to the court's
7 determination under this section:

8 (1) If two or more persons with the same priority class
9 hold the right of disposition and cannot agree by
10 majority vote regarding the disposition of the
11 decedent's remains, or there are any persons who claim
12 to have priority over any other person, any of these
13 persons or a funeral establishment, cemetery,
14 mortuary, ~~[or]~~ crematory, hydrolysis facility, or
15 natural organic reduction facility with custody of the
16 remains may file a petition asking the probate court
17 to make a determination in the matter; and

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



- 1 (A) The reasonableness and practicality of the
- 2 proposed funeral arrangements and disposition;
- 3 (B) The degree of the personal relationship between
- 4 the decedent and each of the persons claiming the
- 5 right of disposition;
- 6 (C) The desires of the person or persons who are
- 7 ready, able, and willing to pay the cost of the
- 8 funeral arrangements and disposition;
- 9 (D) The convenience and needs of other families and
- 10 friends wishing to pay respects;
- 11 (E) The desires of the decedent; and
- 12 (F) The degree to which the funeral arrangements
- 13 would allow maximum participation by all wishing
- 14 to pay respect.
- 15 (c) In the event of a dispute regarding the right of
- 16 disposition, a funeral establishment, cemetery, mortuary, [~~or~~]
- 17 crematory, hydrolysis facility, or natural organic reduction
- 18 facility shall not be liable for refusing to accept the remains,
- 19 to inter or otherwise dispose of the remains of the decedent, or
- 20 complete the arrangements for the final disposition of the
- 21 remains until it receives a court order or other written



1 agreement signed by the parties in the disagreement that the
2 dispute has been resolved or settled.

3 If the funeral establishment, cemetery, mortuary, [~~or~~]
4 crematory, hydrolysis facility, or natural organic reduction
5 facility retains the remains for final disposition while the
6 parties are in disagreement, it may embalm or refrigerate and
7 shelter the body, or both, while awaiting the final decision of
8 the probate court and may add the cost of embalming or
9 refrigeration and sheltering to the cost of final disposition.

10 If a funeral establishment, cemetery, mortuary, [~~or~~]
11 crematory, hydrolysis facility, or natural organic reduction
12 facility brings an action under this section, it may add the
13 legal fees and court costs associated with a petition under this
14 section to the cost of final disposition.

15 This section shall not be construed to require or impose a
16 duty upon a funeral establishment, cemetery, mortuary, or
17 crematory to bring an action under this section.

18 A funeral establishment, cemetery, mortuary, [~~or~~]
19 crematory, hydrolysis facility, or natural organic reduction
20 facility and its officers, directors, managers, members,



1 partners, or employees may not be held criminally or civilly
2 liable for choosing not to bring an action under this section."

3 SECTION 7. Section 531B-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§531B-8[+] **Right to rely on representations.** (a) Any
6 person signing a funeral service agreement, cremation
7 authorization form, or any other authorization for disposition
8 shall be deemed to warrant the truthfulness of any facts set
9 forth therein, including the identity of the decedent whose
10 remains are to be buried, cremated, or otherwise disposed of,
11 and the party's authority to order the disposition.

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



(c) The funeral establishment, cemetery, mortuary, ~~or~~ crematory, hydrolysis facility, or natural organic reduction facility shall have no responsibility to verify the identity of the decedent or contact or independently investigate the existence of any person who may have a right of disposition. If there is more than one person in the same priority class pursuant to section 531B-4 and the funeral establishment, cemetery, mortuary, ~~or~~ crematory, hydrolysis facility, or natural organic reduction facility has no knowledge of any objection by other members of the priority class, it may rely on and act according to the instructions of the first person in the priority class to make funeral and disposition arrangements; provided that no other person in the priority class provides written notice to the funeral establishment, cemetery, mortuary, ~~or~~ crematory, hydrolysis facility, or natural organic reduction facility of that person's objections."

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

"~~[§]§531B-9[§]~~ **Authority to direct and control disposition; recovery of reasonable expenses.** (a) A funeral director or manager of a funeral establishment, cemetery,



1 mortuary, ~~[e]~~ crematory, hydrolysis facility, or natural
2 organic reduction facility shall have complete authority to
3 direct and control the final disposition and disposal of a
4 decedent's remains and to proceed under this chapter to recover
5 reasonable charges for the final disposition and disposal if:

6 (1) The funeral director or manager:

7 (A) Has no knowledge that any of the persons
8 described in section 531B-4(a)(1) through
9 ~~[f]~~(a)(10)~~[f]~~ exist;

10 (B) Has knowledge that the person or persons who may
11 or do have the right of disposition cannot be
12 found after reasonable inquiry or reasonable
13 attempts to contact; or

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

17 (2) The appropriate public authority fails to assume
18 responsibility for disposition of the remains within
19 thirty-six hours after having been given written
20 notice of the decedent's death. Written notice may be



1 given by hand delivery, certified mail, facsimile
2 transmission, or electronic mail transmission.

3 (b) Disposal of the decedent's remains pursuant to this
4 section shall be by any means that are not prohibited by law."

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

7 "~~[§]~~**§531B-11**~~[§]~~ **Immunity.** No funeral establishment,
8 cemetery, mortuary, ~~[or]~~ crematory, hydrolysis facility, or
9 natural organic reduction facility or any of its officers,
10 directors, members, partners, funeral directors, managers, or
11 employees who reasonably rely in good faith upon the
12 instructions of an individual claiming the right of disposition
13 shall be subject to criminal or civil liability or
14 administrative or disciplinary action for carrying out the
15 disposition of the remains in accordance with the instructions."

16 SECTION 10. Section 841-10, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§841-10 Decent burial.** When any coroner or deputy
19 coroner takes an inquest upon the dead body of a stranger or
20 indigent person or, being called for that purpose, does not
21 think it necessary, on view of the body, that any inquest should

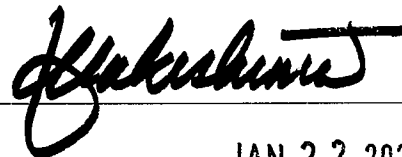


1 be taken, the coroner or deputy coroner shall cause the body to
2 be decently buried, or cremated[-], or undergo alkaline
3 hydrolysis, water cremation, or natural organic reduction. A
4 burial-transit permit authorizing a burial, ~~[or]~~ cremation,
5 alkaline hydrolysis, water cremation, or natural organic
6 reduction, shall be secured from the local agent of the
7 department of health by the person in charge of such burial,
8 ~~[or]~~ cremation~~[-]~~, alkaline hydrolysis, water cremation, or
9 natural organic reduction."

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

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

13 INTRODUCED BY: _____



JAN 22 2021



H.B. NO. 680

Report Title:

Human Remains; Alkaline Hydrolysis; Water Cremation; Organic Reduction

Description:

Allows the use of traditional Hawaiian burial practices in the treatment and disposal of human remains, which includes the use of alkaline hydrolysis, water cremation, and natural organic reduction. Amends procedures for the resolution of disputes regarding the right of disposition, right to rely and act upon written instructions in a funeral service agreement or similar documents, and provisions for the disposition of a decedent's remains and recovery of reasonable expenses to include hydrolysis facilities and natural organic reduction facilities.

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