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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 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 2. 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,  
20 alkaline hydrolysis, or natural organic reduction at public  
21 expense pursuant to section 346-15 shall:



(1) Exercise due diligence to notify the relatives[~~7~~] and  
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 3. 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, or natural organic reduction, except as otherwise  
3 provided in section 327-14 or as directed in a document of gift,  
4 subject to any required disposition permits."

5 SECTION 4. Section 346-15, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) All unclaimed dead human bodies shall [~~be cremated.~~]  
8 undergo cremation, alkaline hydrolysis, or natural organic  
9 reduction. The department may bear the cost of the mortuary  
10 [~~and~~], crematory, alkaline hydrolysis, or natural organic  
11 reduction services for unclaimed dead human bodies furnished by  
12 any licensed provider of mortuary or crematory services.

13 Payments for [~~mortuary and crematory~~] these services shall be  
14 made to the extent of the cost, or in the sum of \$800 in total,  
15 whichever is less, for each unclaimed dead human body.

16 Individuals who have possession, charge, or control of any  
17 unclaimed dead human body to [~~be cremated~~] undergo cremation,  
18 alkaline hydrolysis, or natural organic reduction at public  
19 expense shall have sixty days from the date of the deceased's  
20 death to submit in writing to the department its determination  
21 that the dead human body is unclaimed and its application for



1 payment for ~~[cremation.]~~ these services. The county medical  
2 examiners or coroners shall have no time limitation by which to  
3 submit their written determination that the dead human body is  
4 unclaimed and their application for payment for cremation~~[.]~~  
5 alkaline hydrolysis, or natural organic reduction."

6 SECTION 5. Section 531B-2, Hawaii Revised Statutes, is  
7 amended by adding seven new definitions to be appropriately  
8 inserted and to read as follows:

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

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

18 "Cremation" means the irreversible process of reducing  
19 human remains to bone fragments (skeletal remains) through heat  
20 and evaporation.



1       "Hydrolysis equipment" means the actual equipment,  
2       machinery, or unit specifically designed and built for the  
3       purposes of processing human remains while complying with all  
4       health, safety, and pollution regulations and requirements in  
5       its operation. "Hydrolysis equipment" includes but is not  
6       limited to prebuilt and prepackaged hydrolysis units or  
7       equipment that is erected on site at a hydrolysis facility.

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

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

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

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

18       "~~§~~**531B-6**~~§~~   **Forfeiture of right to direct disposition.**

19       A person entitled under law to the right of disposition shall  
20       forfeit that right, and the right is passed on to the next



1 person in the order of priority as listed in section 531B-4,  
2 under the following circumstances:

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

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

18 (3) The person and the decedent are spouses, civil union  
19 partners, or reciprocal beneficiaries, and at the time  
20 of the decedent's death, proceedings for annulment,  
21 divorce, or separation had been initiated or a



1 declaration for termination of the reciprocal

2 beneficiary relationship had been filed; or

3 (4) The probate court pursuant to section 531B-7

4 determines that the person entitled to the right of

5 disposition and the decedent were estranged at the

6 time of death."

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

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

11 (1) If two or more persons with the same priority class

12 hold the right of disposition and cannot agree by

13 majority vote regarding the disposition of the

14 decedent's remains, or there are any persons who claim

15 to have priority over any other person, any of these

16 persons or a funeral establishment, cemetery,

17 mortuary, ~~[or]~~ crematory, hydrolysis facility, or

18 natural organic reduction facility with custody of the

19 remains may file a petition asking the probate court

20 to make a determination in the matter; and





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

5 (A) The reasonableness and practicality of the  
6 proposed funeral arrangements and disposition;

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

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

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

15 (E) The desires of the decedent; and

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

19 (c) In the event of a dispute regarding the right of  
20 disposition, a funeral establishment, cemetery, mortuary, [Ø] ~~Ø~~  
21 crematory, hydrolysis facility, or natural organic reduction



1 facility shall not be liable for refusing to accept the remains,  
2 to inter or otherwise dispose of the remains of the decedent, or  
3 complete the arrangements for the final disposition of the  
4 remains until it receives a court order or other written  
5 agreement signed by the parties in the disagreement that the  
6 dispute has been resolved or settled.

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

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

19 This section shall not be construed to require or impose a  
20 duty upon a funeral establishment, cemetery, mortuary, ~~[or]~~



1 crematory, hydrolysis facility, or natural organic reduction  
2 facility to bring an action under this section.

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

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

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

20 (c) The funeral establishment, cemetery, mortuary, ~~[or]~~  
21 crematory, hydrolysis facility, or natural organic reduction



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

15 SECTION 9. Section 531B-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) A funeral director or manager of a funeral  
18 establishment, cemetery, mortuary, ~~[or]~~ crematory, hydrolysis  
19 facility, or natural organic reduction facility shall have  
20 complete authority to direct and control the final disposition  
21 and disposal of a decedent's remains and to proceed under this



chapter to recover reasonable charges for the final disposition  
and disposal if:

(1) The funeral director or manager:

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

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

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

(2) The appropriate public authority fails to assume  
responsibility for disposition of the remains within  
thirty-six hours after having been given written  
notice of the decedent's death. Written notice may be  
given by hand delivery, certified mail, facsimile  
transmission, or electronic mail transmission."

SECTION 10. Section 531B-11, Hawaii Revised Statutes, is  
amended to read as follows:



1        "[+]§531B-11[+] **Immunity.** No funeral establishment,  
2 cemetery, mortuary, [~~or~~] crematory, hydrolysis facility, or  
3 natural organic reduction facility or any of its officers,  
4 directors, members, partners, funeral directors, managers, or  
5 employees who reasonably rely in good faith upon the  
6 instructions of an individual claiming the right of disposition  
7 shall be subject to criminal or civil liability or  
8 administrative or disciplinary action for carrying out the  
9 disposition of the remains in accordance with the instructions."

10        SECTION 11. Section 841-10, Hawaii Revised Statutes, is  
11 amended to read as follows:

12        "**§841-10 Decent burial.** When any coroner or deputy  
13 coroner takes an inquest upon the dead body of a stranger or  
14 indigent person or, being called for that purpose, does not  
15 think it necessary, on view of the body, that any inquest should  
16 be taken, the coroner or deputy coroner shall cause the body to  
17 be decently buried or [~~cremated.~~] undergo cremation, alkaline  
18 hydrolysis, or natural organic reduction. A burial-transit  
19 permit authorizing a burial [~~or~~], cremation, alkaline  
20 hydrolysis, or natural organic reduction shall be secured from  
21 the local agent of the department of health by the person in



1 charge of [~~such~~] the burial [~~or~~], cremation[-], alkaline  
2 hydrolysis, or natural organic reduction."

3 SECTION 12. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect on July 1, 2060.



**Report Title:**

Human Remains; Alkaline Hydrolysis; 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 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. Effective 7/1/2060. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

