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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Hawaiian Affairs
Thursday, February 4, 2021
1:00 p.m.
Via Videoconference**

**On the following measure:
S.B. 1021, RELATING TO BURIALS**

Chair Shimabukuro and Members of the Committee:

My name is Candace Ito, and I am the Acting Supervising Executive Officer of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocational Licensing Division. The Department appreciates the intent of and offers comments on this bill.

The purpose of this bill is to prohibit selling, transferring, conveying, or otherwise disposing of or offering for sale any plots, crypts, or niches having an authorized capacity limit of fewer than ten sets of cremated human remains or burials prepared consistent with traditional Hawaiian cultural customs and practices.

An applicant of a cemetery authority license must, among other things, provide documentation that the property on which the plot, niche, or crypt is located is dedicated to cemetery use and is free and clear of all encumbrances. Paragraph (2) on page 2, lines 17 through 21, could be interpreted to mean that the burial land is not required to be dedicated to cemetery use and to be free and clear of encumbrances. If this is not the intent of this bill, the Committee should replace "or" on page 2, line 16, with "and",

and paragraph (2) on page 2, lines 17 through 21, should become subsection (c) and revised accordingly. If, on the other hand, the intent of this measure is to address burials on undedicated property, a different statute may be more appropriate to address this matter.

In addition, the Department suggests the bill clearly define “prepared consistent with traditional Hawaiian cultural customs and practices” on page 2, lines 18 and 19, for enforcement purposes.

The Department is available to work with stakeholders to effectuate the intent of this bill.

Thank you for the opportunity to testify on this bill.



**Department of Land and Natural Resources
Hawaii State Aha Moku
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Testimony of
Hawaii State Aha Moku

Before the Senate Committee on Hawaiian Affairs

Thursday, February 4, 2021
1:00 PM

**Support for Senate Bill 1021
Relating to Burials**

Aloha Chair Shimabukuro, Vice Chair Keohokalole and Members of the Senate Hawaiian Affairs Committee,

Thank you for the opportunity to offer testimony on Senate Bill 1021. This bill prohibits selling, transferring, conveying, or otherwise disposing of or offering for sale any plots, crypts, or niches having an authorized capacity limit of fewer than ten sets of cremated human remains or burials prepared consistent with traditional Hawaiian cultural customs and practices.

Participants in the Hawaii State Aha Moku (Aha Moku) supports this measure.

Under the Hawaii State Aha Moku Process, our foundation originates in the translation of ancient chants dating back to the 9th century and focuses on “Malama Ke Akua (Honor God), Malama Ka ‘Aina (Honor the Land), and Malama Na Iwi Hanau O Ka’Aina (Honor the people born of the Land). An extremely important part of our process is the natural order of this protocol. Our protocol honors the traditional Hawaiian cultural burial customs and practices as they are generationally done on each island, each moku and each ahupua’a.

Thank you for the opportunity to support on SB 1021. We support this measure and urge this committee to adopt it.

Respectfully yours,

Kawaikapuokalani Hewett
Lehua, Founder Hawaii State Aha Moku
Phone: 808-382-6043
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Rocky Kalehiwa, Po’o, Aha Moku Advisory Committee
Hawaii State Aha Moku
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‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

SB1021

RELATING TO BURIALS

Ke Kōmike ‘Aha Kenekoa o ke Kuleana Hawai‘i

Pepeluali 4, 2021

1:00 p.m.

Via Videoconference

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the OHA Board of Trustees **SUPPORT** SB1021, a measure which would prohibit burial plot capacity limits to lower than ten when applied to burials prepared consistent with traditional Hawaiian practices.

Native Hawaiian burial practices are deeply integral to Hawaiian culture and identity. The preparation of human remains and the return of deceased family members to the ‘āina are among the greatest kuleana held by the living generation. Unfortunately, state policy, as well as cemetery and mortuary industry practices, have prevented ‘ohana from carrying these practices forward to allow their kūpuna to be buried in their kulāiwi (the land of their ancestors bones) in culturally appropriate, family-style burials. OHA supports regulation that would enable and encourage Hawaiian ‘ohana to reconnect with their traditional burial practices and restore pono for their ‘ohana and kūpuna.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** SB1021. Mahalo piha for the opportunity to testify on this important measure.



Ko`olau Foundation

P. O. Box 4749

Kane`ohe, HI 96744

malamapono744@aol.com / koolaufoundation@gmail.com

February 3, 2021

To: Sen. Maile S.L. Shimabukuro, Chair
Sen. Jarrett Keohokalole, Vice Chair
& Members, Committee on Hawaiian Affairs

From: Aaron Mahi, President
Ko`olau Foundation

Re: S.B. 1021 - Relating to Burials - Support

Aloha Chair Shimabukuro, Vice Chair Keohokalole and Committee Members:

The Ko`olau Foundation urges your committee to join us in supporting passage of S.B. 1021, which would allow an increase in the number of sets of cremated or dry iwi human remains to be buried in the same burial plot.

Our organization also supported legislation in 2015 that legalized what we called “Hawaiian-style burials”, which basically allowed processing of human remains to dry iwi – made possible through modern cremation methods – to be reduced to skeletal remains, wrapped in kapa or other fabric, and buried in lauhala or other containers. This would have significantly reduced the size of the area needed for burial and enabled a family to include several members of their family in a modern burial plot, and reduced the cost to our Hawaiian families.

We ask your kokua by passing this bill out of committee and on the Senate floor.

Mahalo for allowing us to offer our mana`o.

Me kealoha pumehana,

AARON D. MAHI

President

aaronmahi71@gmail.com



Hawaii Funeral & Cemetery Association, Inc.
1330 Maunakea Street, Honolulu, Hawaii 96817

Written Testimony in **Opposition** of
SB 1021– Relating to Burials

February 2, 2021

To: Senator Maile S.L. Shimabukura – Chair- Committee on Hawaiian Affairs
Senator Jarrett Keohokaoloe, Vice Chair-Committee on Hawaiian Affairs
Committee Members

HEARING DATE/TIME: February 4th, 2021 / 1:00pm

Dear Chair Shimabukura, Vice Chair Keohokaoloe and Committee Members

My name is Jay Morford, President and Legislative Chair for the Hawaii Funeral and Cemetery Association, Inc. (“HFCA”). The HFCA is in **Opposition** to SB **1021**(“Bill”) “Relating to Burials”.

The HFCA would like to provide comment why we oppose SB1021 in its current form.

We feel that this proposed bill creates multiple challenges for the mortuary, cemetery and families.

We would like to highlight just a few points of concern regarding the intent of this bill relating to traditional Hawaiian cultural customs and practices.

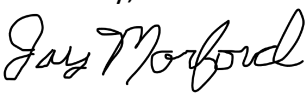
1. Department of Health Permit Requirements; Burial Permit or Cremation Disposition Permit
What is the definition of traditional Hawaiian cultural customs and practices? This is an important question that needs to be answered. Endowment care cemeteries design and map accordingly for casket burial and cremation disposition. Proper cemetery design and mapping utilize space within the cemetery. Ex: An average grave space square footage can be mapped to accommodate up to 12 (2 urn) inurnment spaces. The question I have, what is the definition of traditional Hawaiian cultural customs and practices?
 - a. Will the final disposition practice of “Traditional Hawaiian Burials” only be considered cremated remains? I had conversation with the previous registrar, Dr. Alvin Onaka at (DOH) prior to his retirement about traditional Hawaiian cultural customs and practices “Hawaiian Burial Practices”. Our conversation discussed what permit would be required by the Department of Health for a traditional Hawaiian burial disposition. The final disposition permit would ultimately depend on Hawaiian practitioners and what they determine is allowed under the law, the process definition and the formal practice determined. To my knowledge the definition has yet to be determined by the Kapuna that were involved with initiating the legislation that changed the penal code allowing traditional Hawaiian cultural customs and practices “Hawaiian

burials”. If traditional Hawaiian cultural customs and practices were “only” a cremation disposition the penal code should not have needed to be changed.

2. Disturbing already interred remains (iwi), which is very likely when you consider the manner in which this bill is written requiring 10 interments or inurnments when traditional Hawaiian burials are performed. The bill states” cremated human remains **or** burials prepared consistent with traditional Hawaiian cultural customs and practices. It is not possible to inter 10 bodies into one casket size grave space.
3. There are many practical considerations with interring multiple sets of remains in a single interment right, much less the “not less than 10” standard being proposed.
 - a. The first is that interment rights are not developed in such a manner. A Grave, Crypt and Niche is typically laid out for 1 – 2 interments. To have more than that, and comply with most cemetery standards imposes many challenges for families and the business operations.
 - b. You also have to consider authorization for interment. This requires the owner of the interment right, as well as the authorizing agent (usually the closest next of kin), to give permission for the interment. If multiple interments are made in a single interment right, it will require obtaining authorization from every owner and the next of kin of every decedent already interred before the interment right can be opened up. Similarly, if a disinterment was subsequently requested, it could not occur without the explicit permission of all of those individuals.
 - c. Cemeteries that are not regulated under the DCCA will be operating without any organized supervision which could lead to multiple burials in the wrong space, encroaching on other interments, disturbance of existing interments, interred families (iwi) unlawfully moved without next of kin authority, etc.
4. Endowment Care Cemeteries are designed and mapped to accommodate families that choose cremation inurnment or traditional casket burial. Cemeteries can map and design to provide options to the consumer, including those that choose traditional Hawaiian burial. Proper cemetery design utilizes space, takes into account beautification and eliminates the challenges we have documented. If traditional Hawaiian cultural customs final disposition is interring what some would call the “Long Bones”, the cemeteries could design sections within the cemetery to accommodate that cultural need. It’s no different than how we currently design cremation gardens to accommodate families that choose the disposition of cremation, or other religious groups.

In closing, we do not feel this bill is necessary and creates a multitude of problems for families and the mortuary and cemetery industry.

Sincerely,



Jay Morford

Cc: Elizabeth A Char, MD -Director of the Department of Health
Catherine P. Awakuni Colón - Director of the Department of Commerce and Consumer Affairs.

SB-1021

Submitted on: 2/3/2021 2:56:26 AM

Testimony for HWN on 2/4/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Juanita Brown Kawamoto	Individual	Support	No

Comments:

I support this bill.

Mahalo,

Juanita Mahienaena Brown Kawamoto

Mahealani Cypher
45-342 Lilipuna Rd., #308
Kaneohe, HI 96744
Ph. (808) 226-4195
malamapono744@aol.com

February 3, 2021

Senator Maile Shimabukuro, Chair
And Members, Committee on Hawaiian Affairs
Hawaii State Capitol
Honolulu, HI 96813

Subject: S.B. 1021, Relating to Hawaiian Burials

Aloha Chair Shimabukuro and Committee Members:

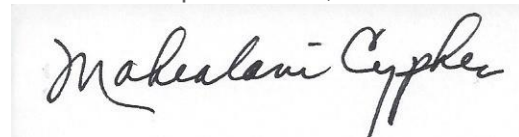
Senate Bill 1021, Relating to Hawaiian Burials, would increase the capacity of burial plots to allow more than two sets of human remains to be placed in these plots. I agree with the rationale for this proposal, because – in my experience – there are many island families, especially Hawaiian families, who have struggled with the high cost of modern funerals and burial plots. It is because of this reason that I strongly support this legislation.

I would hope, however, that proper guidelines be instituted so that this can be done in a respectful and responsible manner. For instance, I wouldn't want people leasing space in their family's burial plot to non-family members, i.e., making a profit out of this. This should NOT be commercialized. As for adverse impacts on island cemeteries, there would still be a cost for opening the plot whenever a new set of remains would need to be interred.

I urge that this committee work with our cemetery representatives to craft revisions as needed to make this feasible, because I truly believe the changes are needed and can be done without significant impact upon families and cemetery owners.

Mahalo for considering my testimony. Please pass this bill out of committee.

Me Kealoha pumehana,



MAHEALANI CYPHER
Cultural Interpreter

LATE

SB-1021

Submitted on: 2/3/2021 3:17:00 PM

Testimony for HWN on 2/4/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bronson Kainoa Kiyoshi Azama	Individual	Support	No

Comments:

As part of the recent resurgence of Native Hawaiian practices included that of Traditional Hawaiian Style burials I find this measure would be of great benefit to solving issues we have yet to face and are in fact proactive in dealing with issues our community shall face, as more demand for Hawaiian style burials will increase over time.

I do wish to include that the term "Hawaiian Style Burial" be included as separate from traditional, as some could argue the modern-day practices of where we bury, and the process of dealing with the reduction of the body to bones is a bit different from that of the traditions of our ancestors. Crematories I find are not the imu we are used to when we say "traditional".



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

February 3, 2021

To: Sen. Maile Shimabukuro, Chair
Sen. Jarrett Keohokalole, Vice Chair/&Members
Hawaiian Affairs Committee

From: Leialoha Kaluhiwa, President
Ko`olaupoko Hawaiian Civic Club

Re: Support for Senate Bill 1021, Relating to Hawaiian Burials

Aloha Chair Shimabukuro and Committee Members:

The Ko`olaupoko Hawaiian Civic Club strongly supports Senate Bill 1021 to increase the capacity of modern burial plots to allow burial remains, in `iwi or cremated form, to be buried in the same plot.

Our civic club is one of the largest clubs in the Association of Hawaiian Civic Clubs, which has over 60 clubs throughout the islands and on the continental United States. Our members come primarily from the nine ahupua`a around Kane`ohe bay.

Our civic club was successful in convincing the legislature in 2015 to pass S.B.1166 which was signed into law by Governor Abercrombie as Act 171 – which made clearly legal the preparation of human remains in the Hawaiian style, i.e., reduced to dry iwi (skeletal remains) under the state's penal code.

Among our main arguments, which we think persuaded the Legislature at that time, was that allowing “Hawaiian-style burials” would reduce the cost to island families for caskets and burial plots. In our research, we had learned that human remains could be reduced to dry iwi through the cremation process. Once this is done, family members would claim the remains, wrap them in kapa or other fabric, and bury in lauhala basket or other container. This greatly reduces the size of the burial unit and increases the capacity of a modern burial plot to accommodate more family members.

We also argued that “Hawaiian-style burials” would be better for the environment, ultimately, because these would not contain chemicals but consist only of skeletal remains.

When that legislation was signed into law, news articles about it appeared in almost 40 publications around the world.

(Continued)

Continued
Ko`olaupoko Hawaiian Civic Club
Testimony on SB 1021
Page 2

Mahalo nui for allowing us to share our mana`o. Please approve this measure.

Attachments (2)

The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. One of the largest of the Hawaiian Civic Clubs, its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart".
P. O. Box 664 * Kaneohe, HI 96744 * Ph. (808) 235-8111 * www.koolaupoko-hcc.org