

February 8, 2024
Senate Committee on Hawaiian Affairs
Senate Committee on Water and Land
Thursday, February 8, 2024 at 1:15 pm

Aloha Chairs Shimabukuro and Inouye, Vice Chairs Fevella and Elefante, and members of the Committees:

For the bills on the agenda for February 8, 2024, I respectfully provide the following testimony based on my experience as a community housing developer for the last 30+ years and serving on the Maui Lana'i Island Burial Council.

SB 2589: I support this bill with revisions. I'm supportive of increasing the maximum fine amount but do not support changing violations from a misdemeanor to a felony.

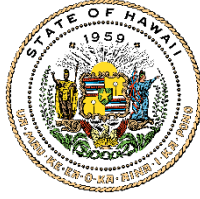
Thank you for your consideration.

Best regards,

Everett Dowling
Member of the Maui Lanai Islands Burial Council

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HI 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committees on
HAWAIIAN AFFAIRS
and
WATER AND LAND
Thursday, February 08, 2024
01:15PM
State Capitol Room 224 & Via Videoconference**

**In consideration of
SENATE BILL 2589
RELATING TO BURIAL SITES**

Senate Bill 2589 amends section 6E-72, Hawaii Revised Statutes (HRS), to increase the penalty for desecrating a burial site from a misdemeanor to a felony. **The Department of Land and Natural Resources (Department) strongly supports this measure and offers comments.**

Senate Bill 2589 amends section 6E-72(b), HRS, by reclassifying any “taking, appropriation, excavation, injury, destruction, or alteration of a burial site [as] a felony” rather than a misdemeanor. The Department supports this amendment as it recognizes the seriousness of such actions.

The measure goes on amend section 6E-72(b), HRS, by requiring imposition of a fine of \$25,000 for any such violation of this section. Current law permits imposition of a fine of up to that amount. The Department believes that it is not appropriate to require the imposition of this fine. The Department believes that the amount of the fine, up to the current maximum amount, should be at the discretion of the prosecutor and the trial judge.

Mahalo for the opportunity to testify on this measure .



SB2589

RELATING TO BURIAL SITES

Senate Committee on Hawaiian Affairs

Senate Committee on Water & Land

February 8, 2024

1:15 p.m.

Room 224

The Office of Hawaiian Affairs **SUPPORTS** SB2589, which would increase the penalty for the desecration of Hawaiian and non-Hawaiian burials sites from a misdemeanor to a felony and further require a subsequent fine for perpetrators of the offense. **OHA supports stronger enforcement mechanisms, such as those proposed in this measure, for Hawai‘i Revised Statutes (HRS) Chapter 6E, which intends to protect cultural sites from irreversible damage and deter irresponsible behavior.**

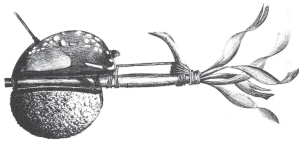
As you may be aware, a Burial Sites Working Group (BSWG) was formed by OHA in 2021 in response to House Resolution 113 (HR 113) and Senate Resolution 171 (SR 171) to look at the systemic issues surrounding the island burial councils and State Historic Preservation Division (SHPD). Although a Joint Resolution between the Senate and House was never achieved, OHA decided to underwrite and establish the BSWG in reflection of OHA's historic preservation responsibilities in both rule and statute. The BSWG held their inaugural meeting on Thursday, September 23, 2021. It was envisioned that a report would be made to the 2022 Legislature. However, given the volunteer nature of the group, unforeseen obstacles, and the sheer enormity of the issues presented across all islands, substantial delays ensued. Nevertheless the BSWG report was finished by the dedicated members of the group in 2023 and subsequently provided to the legislature. The measure presented before you now is one of the recommendations from the report.

As stated within Appendix B of the BSWG report: “One of the strongest and most consistent pleas registered by those offering testimony to the BSWG involved the need to change the law to ensure that violators are prosecuted. Currently, marked burials in historic-period graves are given the full strength of protections via statutory language that makes prosecution a requirement through the use of mandated ‘shall’ language. Thus, the disparity between the two levels of protection constitutes a discriminatory practice that systematically treats Native Hawaiian burials in a ‘second class’ manner with lesser, optional protections.

“Changing from ‘misdemeanor’ to ‘felony’ maintains historic consistency in the law as to the seriousness of the act of disturbing human remains from burial sites without

consent. Replacing 'may' with 'shall' in this Chapter 6E statute will deter would-be violators from harming burials, affording them the protections provided by the burial laws. The use of 'shall' creates consistency with Chapter 711-1107 relating to desecration, including burials, and to Chapter 711-108 relating to the abuse of a corpse."

For the above reasons, OHA urges the Committee to **PASS** SB2589. Mahalo for the opportunity to testify on this measure.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAI'I 96823

TO: Senator Maile Shimabukuro, Chair
Senator Kurt Favella, Vice Chair
Committee on Hawaiian Affairs (HWN)

Senator Lorraine Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

FROM: Mara Mulrooney, Ph.D.
President, Society for Hawaiian Archaeology
membership@hawaiianarchaeology.org

HEARING: February 8, 2024, 1:15 PM, Conference Room 224 & Videoconference

SUBJECT: Testimony regarding SB 2589, Relating to Burial Sites

I am Mara Mulrooney, President of the Society for Hawaiian Archaeology (SHA). We have over 150 members including professional archaeologists and advocates of historic preservation. On behalf of SHA, **we support SB 2589**, relating to burial sites.

The intent of SB 2589 is to increase the penalty for the desecration of burial sites from a misdemeanor to a felony. If this bill is adopted, it will provide better protections for iwi kupuna by deterring potential violators through the implementation and enforcement of stronger penalties.

Mahalo for the opportunity to comment.

<https://hawaiianarchaeology.org/>

The Society for Hawaiian Archaeology is a registered tax-exempt organization established in 1980 to promote and stimulate interest and research in the archaeology of the Hawaiian Islands, encourage a more rational public appreciation of the aims and limitations of archaeological research, serve as a bond among those interested in Hawaiian archaeology, both professionals and non-professionals, and aid in directing their efforts into more scientific channels as well as encourage the publication of their results, advocate and assist in the conservation of archaeological data, discourage unethical commercialism in the archaeological field and work for its elimination.

PACIFIC RIM LAND INC.

ESTABLISHED 1988

TESTIMONY

Senate Committee on Hawaiian Affairs
Senate Committee on Water and Land
Thursday, February 8, 2024 at 1:15 pm
Conference room 224 and Videoconference

Aloha Chairs Shimabukuro and Inouye, Vice Chairs Fevella and Elefante, and members of the Committees:

For the bills on the agenda for February 8, 2024, I respectfully provide the following testimony on behalf of Pacific Rim Land, Inc., a Goodfellow family company, which is a private real estate investment, development, and management company founded in 1988.

SB No. 2589

I oppose this bill. This change to a felony seems draconic. Already the penalty is a misdemeanor for which a fine of up to \$25,000 may be imposed.

Sincerely,
Leilani Pulmano
Vice President, Pacific Rim Land

SB-2589

Submitted on: 2/2/2024 5:10:08 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Lu Ann Mahiki Lankford-Faborito	Individual	Support	Written Testimony Only

Comments:

support

SB-2589

Submitted on: 2/2/2024 6:10:13 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Julia Estigoy-Kahoonei	Individual	Support	Written Testimony Only

Comments:

Yes there needs to be stiffer penalties for those who disrespect the importance of ‘oiwi

SB-2589

Submitted on: 2/4/2024 8:51:06 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Tamara Paltin	Individual	Support	Written Testimony Only

Comments:

support

SB-2589

Submitted on: 2/5/2024 10:42:36 AM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
josephine tanimoto	Individual	Support	Written Testimony Only

Comments:

Aloha. Mahalo for the opportunity to support this Bill. I live in Kawaihae, on the Big Island. My example of desecration is a cemetery below Queen Ka'ahumanu Highway and Kawaihae Road. There was an archaeological survey conducted on Queen Emma lands. About 2018, the Legislature funded a pocket-lane and shoulders; transfer of land to State DOT.

This lane is incomplete due to unknown boundary. The Police are called to move vehicles away from the area, a No Parking sign is in place. Nothing happens. The USACE identified this location while surveying unexploded ordinance. Tourists, trucks and trailers, even containers are seen here. Problem people walk all over, in cemetery, use as bathroom. The Ironman bicyclists used to park their trailers and vehicles on this area.

A phone call to Hawaii Burial Council and County Resources Commission is still pending regarding updates towards cemetery signage, etc. Maybe this Bill will help address these problems. Mahalo

SB-2589

Submitted on: 2/6/2024 4:29:59 AM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Hannah K Anae	Individual	Support	Written Testimony Only

Comments:

The penalty for desecration of human skeletal remains (HSR) or iwi kūpuna should be no less than a felony. In wā kahiko to wā mamua the iwi and mana of our kūpuna is venerated to lift the ‘ohana('s) mana, and the mana of our lāhui. There is a great respect for our iwi kūpuna.

SB-2589

Submitted on: 2/6/2024 8:14:39 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Rona Ikehara-Quebral	Individual	Support	Written Testimony Only

Comments:

Aloha, I support SB2589, which increases the penalty for the desecration of burial sites. This bill would punish the offenders accordingly and hopefully act as a deterrent. Mahalo for supporting this bill.

SB-2589

Submitted on: 2/7/2024 9:53:09 AM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Keomailani Hanapi Hirata	Individual	Comments	In Person

Comments:

Aloha 'aina kakou,

My name is Keomailani Hanapi Hirata, I am a keiki o ka aina o Molokai.

I will be testifying, in person, to SB2589.

Mahalo

SB-2589

Submitted on: 2/7/2024 11:32:16 AM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Wainani Traub	Individual	Support	Written Testimony Only

Comments:

I support SB 2589, relating to burial sites.

The intent of SB 2589 is to increase the penalty for the desecration of burial sites from a misdemeanor to a felony. If this bill is adopted, it will provide better protections for iwi kupuna by deterring potential violators through the implementation and enforcement of stronger penalties.

SB-2589

Submitted on: 2/7/2024 1:04:15 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Kilihea Inaba	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

This testimony is in support of SB2589. A statement needs to be made on the seriousness of any desecration be it intentionally or unintentionally of any burial site here in Hawai'i.

Mahalo,

Kilihea Inaba

Kaloko, Kona, Hawai'i

SB-2589

Submitted on: 2/7/2024 3:59:48 PM

Testimony for HWN on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter R. Mills	Individual	Support	Written Testimony Only

Comments:

TO: Senator Maile Shimabukuro, Chair

Senator Kurt Favella, Vice Chair

Committee on Hawaiian Affairs (HWN)

Senator Lorraine Inouye, Chair

Senator Brandon J.C. Elefante, Vice Chair

Committee on Water and Land (WTL)

FROM: Peter R. Mills; millsp@hawaii.edu

HEARING: February 8, 2024, 1:15 PM, Conference Room 224 & Videoconference

SUBJECT: Testimony regarding SB 2589, Relating to Burial Sites

I am a past member of the Hawaii Historic Places Review Board, a professor of anthropology at the University of Hawaii at Hilo for the last 27 years, and director of our Heritage Management MA program. I support SB 2589, relating to burial sites.

The intent of SB 2589 is to increase the penalty for the desecration of burial sites from a misdemeanor to a felony. If this bill is adopted, it will provide better protections for iwi kūpuna by deterring potential violators through the implementation and enforcement of stronger penalties.

Mahalo for the opportunity to comment.