

RE: S.B. No. 1021  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii  
Sir:

Your Committee on Hawaiian Affairs, to which was referred S.B. No. 1021 entitled:  
"A BILL FOR AN ACT RELATING TO BURIALS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the selling, transfer, conveyance, disposal, or offer for sale of any plot if the capacity limit is lower than ten when applied to burials prepared consistent with traditional Hawaiian cultural customs and practices.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources Hawaii State Aha Moku, Office of Hawaiian Affairs, Koāʻōlau Foundation, Koāʻōlaupoko Hawaiian Civic Club, and three individuals. Your Committee received testimony in opposition of this measure from the Hawaii Funeral and Cemetery Association, Inc. Your Committee received comments on this measure from the Department of Commerce and Consumers Affairs' Professional and Licensing Division.

Your Committee finds that Native Hawaiian burial practices are deeply integral to Hawaiian culture and identity.

Native Hawaiian burial practices are vital to the preparation, as iwi (ancestral bones) are a lasting embodiment of ancestors and serve as a continuous genealogical link from the past, present, and future generations. Current state policy and cemetery and mortuary industry practices have prevented families from engaging in traditional burial practices in allowing their ancestors to be buried in culturally appropriate family-style burials.

Your Committee has heard the testimony of the Hawaii Funeral and Cemetery Association, Inc., concerning the lack of definition for "traditional Hawaiian burials." Additionally, the Association voiced reservations about disturbing already interred remains. Further, the Association provided practical considerations for interring multiple sets of remains in a single interment. Specifically, endowment care cemeteries design and map accordingly for casket burial and cremation disposition and proper cemetery design and mapping utilize space within the cemetery. To increase the size of interments and comply with most cemetery standards imposes challenges for families and business operations. The Association also highlighted concerns about authorization for interment and the potential that cemeteries that are not regulated under the Department of Commerce and Consumer Affairs will be operating without organized supervision, which could lead to encroachment of other interments or existing interments.

Your Committee finds that the language in S.B. No. 982 (Regular Session of 2021), relates to traditional Hawaiian burials and addresses the concerns of providing an adequate definition for traditional Hawaiian burials.

Accordingly, your Committee has amended this measure by:

(1) Inserting the contents of S.B. No. 982, a measure that:

- (A) Clarifies the definition of "traditional Hawaiian burial" for enforcement purposes;
- (B) Allows the Department of Health to accommodate traditional Hawaiian burial practices, such as alkaline hydrolysis or water cremation to promote the use of these practices;
- (C) Amends the procedures for the resolution of disputes regarding the right of disposition and the right to rely and act upon written instructions in a funeral service agreement or similar document; and
- (D) Provides for the disposition of a decedent's remains and recovery of reasonable expenses to include hydrolysis facilities and natural organic reduction facilities; and

(2) Clarifying that an applicant of a cemetery authority license must 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; and

(3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee further finds that the issues raised by the testifiers merit further consideration and requests that your Committee on Commerce and Consumer Protection further examine those issues and concerns regarding this measure.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1021, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1021, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on behalf of the members of the Committee on  
Hawaiian Affairs,

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MAILE S.L. SHIMABUKURO, Chair