

## Hawaii Indian Burial Laws

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### HAWAII

**Citation:** Historic Preservation Program (Hawaii Rev. Stat. Â§6E).

**Date Enacted:** 1988, amended 1990

**Summary:** This historic preservation law does not deal with grave goods but does have a provision for discovery and reburial of human remains. It takes into account Native Hawaiian concerns, and requires reburial of Native Hawaiian remains. For any known or discovered site with human remains that are over 50 years old, in situ preservation preferred. If excavation is required, the Department of Natural Resources must issue a permit. The ground disturbing activity ceases and the police and medical examiner are notified when human remains are inadvertently discovered. The law enforcement officials notifies the Department of Land and Natural Resources for human remains from significant historic or prehistoric burials. For single skeletons, the Department has two days to alert the appropriate Island Burial Council and the Office of Hawaiian Affairs if the remains are thought to be Native Hawaiians. In cases of multiple skeletons, the Department has three days to contact the Councils after gathering evidence and documenting the nature of the burial. The Island Burial Council has 45 days to decide appropriate action including preservation or relocation. Working with the Department and the Office of Hawaiian Affairs, the Island Burial Council develops criteria to be followed and oversees the removal. The landowner or developer may appeal the decision. Within 90 days of the final determination, the preservation or mitigation plan must be approved by the Department in consultation with the lineal descendants, Council, Office of Hawaiian Affairs, and affected landowner. The project resumes after implementation of the mitigation plan. Disposition will be done with traditional ceremonies and scientific analysis is usually allowed. If remains are removed, the Department in consultation with the Council and descendants determines the site of the relocation. For remains that are not Native Hawaiian, the Department of Land and Natural Resources has 30 days to determine if preservation or relocation is more appropriate and 90 to develop the action plan in consultation with lineal descendants and appropriate ethnic groups.

**Jurisdiction:** State or private lands.

**Statute of Limitations:** Not specified.

**Areas Covered Under Act:** Any burial in an unmarked location.

**Ownership:** Not specified but the state takes the lead in coordinating the ultimate disposition.

**Review/Consultation Committee:** The Office of Hawaiian Affairs and appropriate Island Burial Council must be consulted.

**Liable:** Anyone who knowingly disturbs or removes human burials without a permit or authorization.

**Penalties:** Violations are considered a misdemeanor under Hawaiian criminal code with fines up to \$10,000.

**Exemptions:** Not specified.

**Permitting:** Department of Land and Natural Resources issues excavation permits.