

MAR 10 2010

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO REQUIRE IN ITS
CONTRACTS THAT INCARCERATED NATIVE HAWAIIANS BE FREE TO
PRACTICE THEIR NATIVE HAWAIIAN RELIGION AS WELL AS ONE
OTHER FAITH.

1 WHEREAS, freedom to practice religion is guaranteed under
2 Article I, Section 4 of the Hawaii Constitution, which states,
3 "No law shall be enacted respecting an establishment of
4 religion, or prohibiting the free exercise thereof, or abridging
5 the freedom of speech or of the press or the right of the people
6 peaceably to assemble and to petition the government for a
7 redress of grievances"; and
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9 WHEREAS, after western contact, many Hawaiian ali'i
10 converted to Christianity, while also practicing their Hawaiian
11 religion and engaging in Hawaiian cultural and spiritual
12 practices; and
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14 WHEREAS, today, many Native Hawaiians continue to practice
15 two religions--their Hawaiian religion as well as another
16 religion, such as Christianity or Buddhism; and
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18 WHEREAS, Native Hawaiians who have been incarcerated in
19 out-of-state facilities have been forced to choose one religion
20 that they are allowed to practice; and
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22 WHEREAS, the federal Religious Land Use and
23 Institutionalized Persons Act, Title 42 United States Code
24 Chapter 21C, prohibits the imposition of burdens on the ability
25 of prisoners to worship; and
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27 WHEREAS, Title 42 United States Code Section 2000cc-1
28 states that "No government shall impose a substantial burden on
29 the religious exercise of a person residing in or confined to an
30 institution . . . unless the government demonstrates that



1 imposition of the burden on that person . . . is in furtherance
2 of a compelling governmental interest; and . . . is the least
3 restrictive means of furthering that compelling governmental
4 interest"; now, therefore,
5

6 BE IT RESOLVED by the Senate of the Twenty-fifth
7 Legislature of the State of Hawaii, Regular Session of 2010, the
8 House of Representatives concurring, that the Department of
9 Public Safety is requested to require in its new contracts, and
10 to amend its existing contracts to require, that incarcerated
11 Native Hawaiians be allowed to practice their Native Hawaiian
12 religion as well as one other religion, subject to reasonable
13 health, safety, and administrative concerns; and
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15 BE IT FURTHER RESOLVED that the Department of Public Safety
16 is requested to report to the Legislature on the implementation
17 of the requested contract provisions no later than twenty days
18 prior to the convening of the Regular Session of 2011; and
19

20 BE IT FURTHER RESOLVED that the Department of Public Safety
21 is requested to include in its report a copy of the language
22 used in the requested contract provisions; and
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24 BE IT FURTHER RESOLVED that certified copies of this
25 Concurrent Resolution be transmitted to the Governor, the
26 Director of Public Safety, the Chair of the Senate Committee on
27 Public Safety and Military Affairs, the Chair of the House
28 Committee on Public Safety, and the Attorney General.
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