

MAR 10 2010

SENATE 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
31 imposition of the burden on that person . . . is in furtherance
32 of a compelling governmental interest; and . . . is the least



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1 restrictive means of furthering that compelling governmental
2 interest"; now, therefore,
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4 BE IT RESOLVED by the Senate of the Twenty-fifth
5 Legislature of the State of Hawaii, Regular Session of 2010,
6 that the Department of Public Safety is requested to require in
7 its new contracts, and to amend its existing contracts to
8 require, that incarcerated Native Hawaiians be allowed to
9 practice their Native Hawaiian religion as well as one other
10 religion, subject to reasonable health, safety, and
11 administrative concerns; and
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13 BE IT FURTHER RESOLVED that the Department of Public Safety
14 is requested to report to this body on the implementation of the
15 requested contract provisions no later than twenty days prior to
16 the convening of the Regular Session of 2011; and
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18 BE IT FURTHER RESOLVED that the Department of Public Safety
19 is requested to include in its report a copy of the language
20 used in the requested contract provisions; and
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22 BE IT FURTHER RESOLVED that certified copies of this
23 Resolution be transmitted to the Governor, the Director of
24 Public Safety, the Chair of the Senate Committee on Public
25 Safety and Military Affairs, the Chair of the House Committee on
26 Public Safety, and the Attorney General.
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