

MAR 10 2017

SENATE CONCURRENT RESOLUTION

URGING THE GOVERNOR, THE ATTORNEY GENERAL, THE MAYORS OF EACH COUNTY, AND VARIOUS STATE AND COUNTY LEADERS TO FIRMLY UPHOLD BOTH THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA AND HAWAII TO PRESERVE AND PROTECT OUR CIVIL RIGHTS AND TO ENSURE THE SAFETY OF IMMIGRANTS IN OUR COMMUNITIES.

1 WHEREAS, the United States of America is a country founded
2 on the rule of law and guided by the basic democratic values of
3 justice, freedom, and equality set forth and enshrined in the
4 Constitution of the United States; and

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6 WHEREAS, America is a nation that prides itself on
7 democracy, equality, freedom, and opportunity for all its
8 people, whether or not they were born within the country's
9 borders; and

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11 WHEREAS, the rights and liberties of Americans are not made
12 stronger by excluding others, but rather, the strength of our
13 local communities and our nation is based on embracing people
14 from all over the world, honoring both our native peoples and
15 those who seek refuge here; and

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17 WHEREAS, Hawaii has a long history of accommodating waves
18 of immigrants who have come to these islands searching and
19 yearning for better lives for themselves and their families and
20 is the only state where no racial or ethnic group constitutes a
21 majority; and

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23 WHEREAS, Hawaii has a rich and unique culture, largely
24 because of its immensely diverse population; and

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26 WHEREAS, refugees and immigrants significantly enrich our
27 island state in unique ways and contribute to Hawaii's families,
28 economy, institutions, and communities; and
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1 WHEREAS, immigrants have worked alongside Hawaii's citizens
2 in our hospitals, hotels, restaurants, construction sites,
3 laboratories, educational institutions, and in many other
4 industries and institutions and at all levels; and
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6 WHEREAS, Article I, section 2, of the Hawaii State
7 Constitution maintains that "[a]ll persons are free by nature
8 and are equal in their inherent and inalienable rights"; and
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10 WHEREAS, Article I, section 4 of the Hawaii State
11 Constitution provides that "[n]o law shall be enacted respecting
12 an establishment of religion, or prohibiting the free exercise
13 thereof"; and
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15 WHEREAS, Article I, section 5, of the Hawaii State
16 Constitution guarantees that "[n]o person shall be deprived of
17 life, liberty or property without due process of law, nor be
18 denied the equal protection of the laws, nor be denied the
19 enjoyment of the person's civil rights or be discriminated
20 against in the exercise thereof because of race, religion, sex
21 or ancestry"; and
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23 WHEREAS, the Fifth and Fourteenth Amendments to the United
24 States Constitution further guarantee that no person shall be
25 "deprived of life, liberty, or property, without due process of
26 law" and no "State [shall] deprive any person of life, liberty,
27 or property, without due process of law; nor deny to any person
28 within its jurisdiction the equal protection of the laws"; and
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30 WHEREAS, adherence to the constitutional protections
31 provided by the Fifth and Fourteenth Amendments of the United
32 States Constitution and Article I, sections 2, 4, and 5 of the
33 Hawaii State Constitution promotes public safety by ensuring
34 trust between Hawaii's people and their government officials;
35 and
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37 WHEREAS, on January 27, 2017, President Donald Trump issued
38 Executive Order 13769, banning the entry of nationals from seven
39 countries that were chosen solely because those countries are
40 predominantly Muslim; and
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1 WHEREAS, Executive Order 13769, which created chaos across
2 our country, was blocked by various courts because of its
3 unconstitutionality; and
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5 WHEREAS, within two days of the issuance of Executive Order
6 13769, the Hawaii Coalition for Civil Rights – a coalition of
7 twenty-four diverse civic, religious, legal, cultural, and
8 community organizations throughout the State of Hawaii – formed
9 to oppose and reject Executive Order 13769 and any future
10 policies that rely on exclusion and are based on religion and
11 ethnicity; and
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13 WHEREAS, on March 6, 2017, President Trump issued a second
14 edition of the unconstitutional and illegal executive order,
15 which would still suspend immigration from several countries
16 based solely on religion; and
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18 WHEREAS, the new executive order, which mirrors the
19 original order, is antithetical to the beliefs and values of our
20 State and country; and
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22 WHEREAS, these new, drastic federal measures created, and
23 are likely to continue to create, an atmosphere of fear for
24 immigrants, their families, and other members in the community
25 and deprive people of their constitutionally-guaranteed due
26 process protections; and
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28 WHEREAS, it is unconstitutional to strip immigrants of
29 their guaranteed due process rights, and it is un-American to
30 deny assistance to those seeking refuge in a place that has
31 prided itself on being a "melting pot" of immigrant cultures;
32 and
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34 WHEREAS, stringent federal immigration policy is often
35 borne out of fear, prejudice, and stereotypes, rather than
36 factual evidence, and policies aimed at ending illegal
37 immigration have historically been more punitive than rational
38 or practical; and
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40 WHEREAS, despite having long been stigmatized as criminals
41 and threats, immigrants typically commit fewer crimes than
42 citizens born in the United States, and crime rates in sanctuary



1 counties are statistically significantly lower than in non-
2 sanctuary counties; and

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4 WHEREAS, the Tenth Amendment to the United States
5 Constitution guarantees states' sovereignty and provides that
6 "powers not delegated to the United States by the Constitution,
7 nor prohibited by it to the States, are reserved to the States
8 respectively, or to the people"; and

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10 WHEREAS, the Tenth Amendment further provides that the
11 federal government may not commandeer state and local officials
12 by demanding that they enforce federal laws and regulatory
13 programs; and

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15 WHEREAS, each state and municipalities within each state
16 have the sovereign power to choose how they allocate their
17 resources and cannot be forced to carry out the federal
18 government's agenda; and

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20 WHEREAS, local law enforcement agencies should not be
21 required to bear the immense financial burden of enforcing
22 federal immigration laws; and

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24 WHEREAS, such use of valuable state and county resources
25 would be neither wise nor effective for our local communities;
26 and

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28 WHEREAS, forcing local law enforcement authorities to
29 enforce unjust federal immigration laws will make valued
30 community members vulnerable to discrimination and become
31 targets of suspicion, solely because of their assumed race,
32 language, religion, and skin color; and

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34 WHEREAS, compliance with controversial immigration
35 enforcement practices has contributed to unconstitutional
36 detentions, racial profiling, families torn apart, and the
37 deterrence of immigrants from calling upon law enforcement when
38 they are victims of or witnesses to crimes; and

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40 WHEREAS, local officials from over three hundred fifty
41 United States localities have adopted policies based on their



1 unique understanding of the specific needs and priorities of
2 their communities; now, therefore,

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4 BE IT RESOLVED by the Senate of the Twenty-ninth
5 Legislature of the State of Hawaii, Regular Session of 2017, the
6 House of Representatives concurring, that the Governor, the
7 Attorney General, the Mayors of each county, and other state and
8 county leaders are urged to firmly uphold both the Constitutions
9 of the United States of America and Hawaii so that the safety
10 and well-being of our communities are ensured; and

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12 BE IT FURTHER RESOLVED that, as a State, we should lawfully
13 challenge unconstitutional executive orders in the appropriate
14 courts of law, and that we should not participate in
15 unconstitutional federal conduct that leads to the illegal or
16 unlawful detainment of immigrants; and

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18 BE IT FURTHER RESOLVED that, in the face of discriminatory
19 policies and the element of uncertainty in the promulgation and
20 execution of continually evolving orders and policies of the
21 federal government, the State of Hawaii and its leaders are
22 encouraged to advocate for the protection of all residents,
23 including immigrants, and their due process rights, as
24 guaranteed by both the Constitutions of the United States and
25 Hawaii; and

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27 BE IT FURTHER RESOLVED that, to protect these inalienable
28 rights, the Governor, the Attorney General, and the Mayors of
29 each county are urged to exercise the State's sovereign power
30 and encourage lawful non-cooperation with federal officials,
31 such as Immigration and Customs Enforcement officials, who seek
32 to execute unconstitutional policies by commandeering local and
33 state law enforcement, state educational officers, and other
34 state officials; and

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36 BE IT FURTHER RESOLVED that all of Hawaii's residents
37 should have access to city and state services, including proper
38 health care and education, without fear of detention,
39 deportation, or violation of their privacy interests in
40 protected personal information that may be collected by various
41 city and state agencies, such as schools or social service
42 programs; and



S.C.R. NO. 131

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BE IT FURTHER RESOLVED that the counties and the State should fulfill their responsibilities of fostering trust and respect between residents and local law enforcement, protecting limited local resources, and ensuring due process and community security for all residents, regardless of immigration status; and

BE IT FURTHER RESOLVED that local and state law enforcement are urged to not detain people based solely on their immigration status and, instead, enforce policies and conduct themselves in ways that will promote trust, participation, and interaction between communities and local and state officials; and

BE IT FURTHER RESOLVED that, in keeping with Article IX, section 10, of the Hawaii Constitution, which recites Kānāwai Māmalahoe, or the "law of the splintered paddle," as decreed by King Kamehameha I, which states, "Let every elderly person, woman and child lie by the roadside in safety," our government officials should work to ensure the safety of all of Hawaii's people consistent with our constitutional values of justice, equality, and due process; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor of the State of Hawaii, the Attorney General of the State of Hawaii, the Mayor of each county, the Chiefs of Police of each county, the Director of Public Safety, the Director of Human Services, the Superintendent of Education, and the President of the University of Hawaii.

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