

MAR 09 2018

SENATE RESOLUTION

URGING THE HAWAII CHAPTER OF THE AMERICAN JUDICATURE SOCIETY AND
THE HAWAII STATE BAR ASSOCIATION TO ANALYZE AND ASSESS THE
ROLE OF THE JUDICIARY WITHIN THE CONSTITUTIONAL FRAMEWORK
OF GOVERNMENT IN THE STATE OF HAWAII.

1 WHEREAS, our Nation and our State were founded upon the
2 constitutional principle of maintaining separate but equal
3 branches of government to ensure an equal distribution of power;
4 and

5
6 WHEREAS, in *Trustees of Office of Hawaiian Affairs v.*
7 *Yamasaki*, 69 Haw. 154 (1987), the Hawaii Supreme Court clarified
8 the separation of powers doctrine as follows:

9
10 [W]hile the object was to "divide and allocate the
11 sovereign power among three co-equal branches, . . . the
12 separate powers were not intended to operate with absolute
13 independence."

14
15 The Constitution "contemplates that practice will integrate
16 the dispersed powers into a workable government. It enjoins
17 upon its branches separateness but interdependence,
18 autonomy but reciprocity."; and

19
20 WHEREAS, the separation of powers doctrine ensures a
21 workable government by precluding a branch from encroaching into
22 the jurisdiction of another; and

23
24 WHEREAS, if a branch violates the separation of powers and
25 renders government unworkable, the public interest will suffer;
26 and

27
28 WHEREAS, continual discourse and reflection upon the
29 respective roles and responsibilities of the three branches is
30 necessary to ensure responsible governance; and



1 WHEREAS, Hawaii attorneys and judges have a continuing
 2 responsibility to assess the constitutional framework of
 3 government in Hawaii, including the separation of powers
 4 doctrine; now, therefore,
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6 BE IT RESOLVED by the Senate of the Twenty-ninth
 7 Legislature of the State of Hawaii, Regular Session of 2018,
 8 that the Hawaii Chapter of the American Judicature Society and
 9 the Hawaii State Bar Association are urged to analyze and assess
 10 the role of the Judiciary within the constitutional framework of
 11 government in the State of Hawaii, including but not limited to
 12 topics such as the political question doctrine, the Judiciary's
 13 interrelationship with the legislative and executive branches,
 14 and the Judiciary's role in ensuring a workable government; and
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16 BE IT FURTHER RESOLVED that certified copies of this
 17 Resolution be transmitted to the Chair of the Board of Directors
 18 of the Hawaii Chapter of the American Judicature Society, the
 19 President of the Hawaii State Bar Association, the Chief Justice
 20 of the Hawaii Supreme Court, and the Governor of the State of
 21 Hawaii.
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