
HOUSE 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

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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:

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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."

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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

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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

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24 WHEREAS, discussion about the role of the Judiciary should
25 include consideration of the Judiciary's constitutional role in
26 protecting individual rights and freedoms, and the importance of
27 an independent judiciary in preserving the rule of law. As
28 former Hawai'i Supreme Court Chief Justice William S. Richardson
29 stated: "Only an independent judiciary can resolve disputes



1 impartially and render decisions that will be accepted by rival
2 parties, particularly if one of those parties is another branch
3 of government."
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5 WHEREAS, continual discourse and reflection upon the
6 respective roles and responsibilities of the three branches is
7 necessary to ensure responsible governance; and
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9 WHEREAS, Hawaii attorneys and judges have a continuing
10 responsibility to assess the constitutional framework of
11 government in Hawaii, including the separation of powers
12 doctrine; now, therefore,
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14 BE IT RESOLVED by the House of Representatives of the
15 Twenty-ninth Legislature of the State of Hawaii, Regular Session
16 of 2018, that the Hawaii Chapter of the American Judicature
17 Society and the Hawaii State Bar Association are urged to
18 analyze and assess the role of the Judiciary within the
19 constitutional framework of government in the State of Hawaii,
20 including but not limited to topics such as the political
21 question doctrine, the Judiciary's interrelationship with the
22 legislative and executive branches, the Judiciary's role in
23 ensuring a workable government, the Judiciary's role in
24 protecting individual rights and freedoms, and the importance of
25 judicial independence in fostering the rule of law; and
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27 BE IT FURTHER RESOLVED that certified copies of this
28 Resolution be transmitted to the Chair of the Board of Directors
29 of the Hawaii Chapter of the American Judicature Society, the
30 President of the Hawaii State Bar Association, the Chief Justice
31 of the Hawaii Supreme Court, and the Governor of the State of
32 Hawaii.
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