
HOUSE CONCURRENT RESOLUTION

URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL
PROPERTY WORKING GROUP TO DISCUSS POLICIES AND LEGISLATION
WITH RESPECT TO NATIVE HAWAIIAN INTELLECTUAL PROPERTY.

1 WHEREAS, the Native Hawaiian people's collective
2 intellectual property rights are based upon the traditional,
3 cultural knowledge developed over thousands of years and passed
4 down from generation to generation; and
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6 WHEREAS, the value of Native Hawaiian cultural expressions
7 and art forms are exhibited in many forms, including the use of
8 ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making,
9 kākau, weaving, feather work, carving, and wayfinding; and
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11 WHEREAS, the western intellectual property system was
12 developed to protect the rights of creators and inventors
13 against plagiarism and to reward and encourage new inventions
14 and was not developed to protect the rights of indigenous
15 peoples to their collective, traditional knowledge, cultural
16 expressions, and art forms; and
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18 WHEREAS, existing western intellectual property laws
19 recognizing patents, registered trademarks, designs, and
20 copyright often facilitate the theft, misuse, and
21 misappropriation of indigenous knowledge by researchers,
22 authors, scientists, biotechnology corporations, universities,
23 the fashion industry, and others; and
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25 WHEREAS, disputes between indigenous peoples and third-
26 party users of indigenous knowledge resources over ownership and
27 control have steadily increased in the last ten years; and
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29 WHEREAS, a non-Hawaiian food chain that originated in
30 Chicago, Aloha Poke Co., issued cease-and-desist letters
31 threatening small poke food businesses in Hawai'i and across the



1 nation from using the words "Aloha" and "Poke", in essence
2 claiming ownership of these cultural expressions; and
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4 WHEREAS, issues relating to indigenous intellectual
5 property rights have been addressed in many international
6 forums, including the World Intellectual Property Organization's
7 Intergovernmental Committee on Intellectual Property and Genetic
8 Resources, Traditional Knowledge and Folklore; the United
9 Nations Commission on Human Rights; the United Nations
10 Declaration on Rights of Indigenous Peoples; in relation to the
11 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and
12 the Convention on Biological Diversity; and
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14 WHEREAS, other indigenous people have developed strategies
15 and sui generis legal frameworks or systems to protect their
16 collective intellectual property rights and knowledge, including
17 the Indian Arts and Crafts Board federally funded through the
18 United States Department of the Interior, the Toi Iho registered
19 trademark for the Maori art and artists funded through a
20 charitable trust, and the Alaska State Council on the Arts
21 Silver Hand Program for Alaska Native artists funded through the
22 state; and
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24 WHEREAS, the Association of Hawaiian Civic Clubs previously
25 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect
26 Native Hawaiian cultural intellectual property and resources and
27 urge the Legislature to enact legislation, in consultation with
28 Native Hawaiians, that recognizes and protects the Native
29 Hawaiian people's collective intellectual property rights; and
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31 WHEREAS, on October 3-5, 2003, the Paoakalani Declaration
32 was compiled at the Native Hawaiian Intellectual Property Rights
33 Conference to express Native Hawaiians' "collective right of
34 self-determination to perpetuate our culture under threat of
35 theft and commercialization of the traditional knowledge of
36 Kanaka Maoli, our wahi pana and nā mea Hawai'i."; and
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38 WHEREAS, on August 21-22, 2021, the international coalition
39 of kumu hula, Huamakahikina, convened to form and ratify the
40 Huamakahikina Declaration on the Integrity, Stewardship, and
41 Protection of Hula which states "There is insufficient
42 protection for Kanaka Maoli culture and knowledge maintained,
43 and embodied by, Hula. This includes infringement of the



1 intellectual property rights to which Kumu Hula are entitled
2 with respect to the Hula resources they steward and create.";
3 and
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5 WHEREAS, the laws of the State recognize the traditional
6 customary rights of Native Hawaiians but do not expressly
7 recognize and protect the collective intellectual property
8 rights of the Native Hawaiian peoples; now, therefore,
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10 BE IT RESOLVED by the House of Representatives of the
11 Thirty-second Legislature of the State of Hawaii, Regular
12 Session of 2023, the Senate concurring, that this body urges the
13 establishment of a Native Hawaiian Intellectual Property Working
14 Group to discuss policies and legislation with respect to Native
15 Hawaiian intellectual property; and
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17 BE IT FURTHER RESOLVED that it is requested that the Native
18 Hawaiian Intellectual Property Working Group consist of nine
19 members who are experts in Native Hawaiian law, indigenous
20 intellectual property, or Native Hawaiian cultural customs and
21 art or are Native Hawaiian cultural practitioners; provided that
22 the Governor, Speaker of the House of Representatives, and
23 Senate President each appoint three members to the working
24 group, as nominated by the following organizations and entities:
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- 26 (1) The Office of Hawaiian Affairs;
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- 28 (2) The Hawaii State Foundation on Culture and the Arts;
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- 30 (3) The Native Hawaiian Legal Corporation;
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- 32 (4) The Ka Huli Ao Center for Excellence in Native
33 Hawaiian Law;
- 34
- 35 (5) Kāhuli Leo Le‘a;
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- 37 (6) The ‘Ihikapalaumaewa Foundation;
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- 39 (7) The Kawaihuelani Center for Hawaiian Language; and
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- 41 (8) The Association of Hawaiian Civics Clubs; and
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1 BE IT FURTHER RESOLVED that it is requested that the
2 members of the Native Hawaiian Intellectual Property Working
3 Group select a chairperson from among its members; and
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5 BE IT FURTHER RESOLVED that it is requested that the
6 members of the Native Hawaiian Intellectual Property Working
7 Group and the named organizations and entities will have the
8 authority to include additional Native Hawaiian organizations by
9 a majority of the members; and
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11 BE IT FURTHER RESOLVED that the Native Hawaiian
12 Intellectual Property Working Group is requested to create and
13 develop solutions to prevent Native Hawaiian intellectual
14 property from being incorrectly appropriated; and
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16 BE IT FURTHER RESOLVED that the Native Hawaiian
17 Intellectual Property Working Group is requested to meet at
18 least once a month; and
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20 BE IT FURTHER RESOLVED that the Native Hawaiian
21 Intellectual Property Working Group is requested to submit its
22 recommendations, including any proposed legislation, to the
23 Legislature no later than forty days prior to the convening of
24 the Regular Session of 2025; and
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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the Governor, Chief
28 Executive Officer of the Office of Hawaiian Affairs, Dean of the
29 University of Hawai'i at Mānoa William S. Richardson School of
30 Law, Director of the Ka Huli Ao Center for Excellence in Native
31 Hawaiian Law, Dean of the Kawaihuelani Center for Hawaiian
32 Language, Interim Executive Director of the Hawaii State
33 Foundation on Culture and the Arts, Executive Director of the
34 Native Hawaiian Legal Corporation, Board of Directors of Kāhuli
35 Leo Le'a, President of the 'Ihikapalaumaewa Foundation, and
36 President of the Association of Hawaiian Civic Clubs.

