

STAND. COM. REP. NO. 2384

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 2404
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 2404 entitled:

"A BILL FOR AN ACT RELATING TO OFFENSES AGAINST THE PERSON,"

begs leave to report as follows:

The purpose and intent of this measure is to establish:

- (1) An offense of excessive discipline of a minor under the age of eighteen years if the person causes bodily injury, serious bodily injury, or substantial bodily injury in the course of disciplining a minor by the use of certain objects; and
- (2) First, second, and third degree assault penalties, depending on severity of injury to the minor.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney, City and County of Honolulu; Prevent Child Abuse Hawaii; and one individual. Your Committee received testimony in opposition to this measure from two individuals.

Your Committee finds that establishing a specialized offense for excessive discipline of a minor would be a deterrent for child abuse and provide greater protection for Hawaii's children. Moreover, correlating the level of offense to the level of injury inflicted on the child would require prosecutors to obtain a doctor's opinion as to the severity of the injuries before a



felony could be charged. This requirement would mirror felony assault statutes that have similar requirements.

Your Committee has considered recommendations to strengthen the effectiveness of this measure and amended this measure accordingly, by:

- (1) Clarifying the state of mind for the separate offenses, as:
 - (A) Assault in the first degree if a person knowingly or intentionally causes serious bodily injury to a minor;
 - (B) Assault in the second degree if a person recklessly causes substantial bodily injury to a minor; and
 - (C) Assault in the third degree if a person negligently causes substantial bodily injury to a minor.
- (2) Adding language to delete provisions, from section 703-309, Hawaii Revised Statutes, relating to justifiable use of force by a parent or guardian or other person similarly responsible for the general care and supervision of a minor, or a person acting at the request of the parent, guardian, or other responsible person; and
- (3) Making technical amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2404, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2404, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Human Services,

Suzanne Chun Oakland

SUZANNE CHUN OAKLAND, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* <i>SB2404</i>	Committee Referral: <i>HMS, JDL</i>	Date: <i>2-9-12</i>
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
GREEN, M.D., Josh	✓			
SLOM, Sam				✓
TOTAL	<i>3</i>	<i>0</i>	<i>0</i>	<i>1</i>

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature: *[Handwritten Signature]*

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*Only one measure per Record of Votes