

Honolulu, Hawaii

March 22, 2013

RE: S.B. No. 870
S.D. 1
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 870, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO USE OF FORCE BY PERSONS WITH SPECIAL RESPONSIBILITY FOR CARE, DISCIPLINE, OR SAFETY OF OTHERS, "

begs leave to report as follows:

The purpose of this measure is to place limitations on the parental discipline defense while preserving a parent's general right to safeguard and promote the welfare of a child through using disciplinary force by:

- (1) Establishing a rebuttable presumption that the use of specific types of force is unjustifiable; and
- (2) Expanding the state of mind element required to establish that the force used is justified to require that the force used does not intentionally, knowingly, recklessly, or negligently create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.

The Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kauai, IMUAlliance, and two concerned individuals



testified in support of this measure. The Office of the Public Defender testified in opposition to this bill.

Your Committee has amended this measure by:

- (1) Removing striking on the face as one of the types of force to be presumed unjustifiable;
- (2) Changing the effective date to July 1, 2013; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 870, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 870, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



