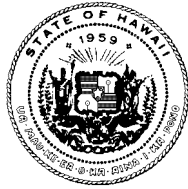


DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96808**

February 18, 2020

TO: The Honorable Russell E. Ruderman, Chair
Committee on Human Services

The Honorable Rosalyn H. Baker, Chair
Committee on Commerce, Consumer Protection, and Health

FROM: Pankaj Bhanot, Director

SUBJECT: **SCR14 and SR15 - RELATING TO EFFECTIVE AND SAFE DISCIPLINE**

Hearing: February 19, 2020, 2:45 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of these resolutions, respectfully opposes to lead such a task force, and offers comments.

PURPOSE: These resolutions request the Department of Human Services, in collaboration with the Department of Health, to convene a task force to establish safe and effective discipline for all children in Hawaii.

Currently, there are different working groups working on child abuse prevention strategies and plans: Hawaii Community Foundation is the lead on a collaborative effort to develop Hawaii's Statewide Child Abuse Prevention Plan, and there is a department-led action-group developing Hawaii's federal Family First Prevention and Services Act State Plan. The Keiki Caucus of the Legislature also addresses the issue of safe and effective discipline. An additional task force is not needed.

However, as noted in the resolutions, DHS believes and agrees with the conclusions of the medical and other professional organizations to ban corporal punishment, as the use of corporal punishment is minimally effective and is linked to increased negative outcomes. The

American Academy of Pediatrics in its policy statement "Effective Discipline to Raise Healthy Children,"¹ states that,

"Aversive disciplinary strategies, including all forms of corporal punishment and yelling at or shaming children, are minimally effective in the short-term and not effective in the long-term. With new evidence, researchers link corporal punishment to an increased risk of negative behavioral, cognitive, psychosocial, and emotional outcomes for children."

The work of DHS is aimed at preventing child abuse and neglect, intervening when necessary, and addressing root causes of poverty that increase the risk of children to be maltreated and neglected. In this work, DHS must also recognize that State law permits corporal punishment in certain circumstances. As long as State law permits corporal punishment, this societal norm will be slow to change even with prevention and intervention efforts. Given the State law, DHS respectfully requests that the Legislature may be the more appropriate body to lead such a task force. DHS will participate as a member in such a task force.

Thank you for the opportunity to provide testimony on this bill.

¹ Sege RD, Siegel BS; Council on Child Abuse and Neglect; Committee on Psychosocial Aspects of Child and Family Health. Effective Discipline to Raise Healthy Children. *Pediatrics*. 2018;142(6):e20183112, see: <https://pediatrics.aappublications.org/content/pediatrics/142/6/e20183112.full.pdf>



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/19/2020

Time: 02:45 PM

Location: 016

Committee: Senate Human Services
Senate Commerce, Consumer Protection,
and Health

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Resolution: SCR 014 REQUESTING THE DEPARTMENT OF HUMAN SERVICES, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH, TO CONVENE A TASK FORCE TO ESTABLISH SAFE AND EFFECTIVE DISCIPLINE FOR ALL CHILDREN IN HAWAII.

Department's Position:

The Department of Education (Department) is in support of SCR 014. Hawaii became the third state to ban corporal punishment in schools in 1973 and adopted a concurrent resolution against corporal punishment in the 1990s. Thus, corporal punishment is not allowed in any public school and any necessary use of force does not involve corporal punishment.

The Department agrees that further discussion is required by role groups outside of education on safe and effective methods of discipline and whether corporal punishment of children by their parents should be banned.

Thank you for the opportunity to provide testimony on SCR 014.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

Hawai'i Chapter

OF THE AMERICAN ACADEMY OF PEDIATRICS

Hawai'i Chapter
1319 Punahou St Fl 7
Honolulu, HI 96826
aaphawaii.org

February 17, 2020

Re: SCR 14, relating to corporal punishment

Position: Support

Board

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Dear Chairs Baker and Ruderman and Honorable Members of the Committees on Commerce, Consumer Protection, and Health and Human Services:

The Hawaii Chapter of the American Academy of Pediatrics is in strong support of SCR 14 which creates a task force to address safe and effective discipline of children in Hawai'i. In addition, the task force will evaluate evidence to consider making a recommendation to ban physical punishment of children.

This resolution builds upon a policy statement by the AAP, our parent organization representing more than 67,000 pediatricians. This statement, issued in December 2018, recommended parents not use any form of physical punishment due to the documented negative impact and lack of effectiveness. In so doing they joined a growing list of professional organizations, as well as the United States Centers for Disease Control and Prevention which has urged State Legislatures to ban corporal punishment. The United Nations recommendation to ban corporal punishment in 2006 has led to legislative bans in corporal punishment in 58 countries.

The Hawai'i Chapter of the AAP is pleased to have been asked to participate in a broad coalition to address this issue. We urge your passage of this resolution.



TO: Chair Ruderman, Vice Chair Rhoads, and Members of the Senate Committee on Health and Human Services and Chair Baker, Vice Chair Change and Members of the Senate Committee on Commerce, Consumer Protection, and Health

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 19, 2020; 2:45 p.m., Conference Room 016

RE: TESTIMONY IN SUPPORT OF SCR 14 and SR 15 REQUESTING THE DEPARTMENT OF HUMAN SERVICES, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH, TO CONVENE A TASK FORCE TO ESTABLISH SAFE AND EFFECTIVE DISCIPLINE FOR ALL CHILDREN IN HAWAII.

We agree with the legislature’s findings that “studies have shown that corporal punishment is not an effective form of discipline and instead is linked to an increased risk of negative behavioral, cognitive, psychosocial, and emotional outcomes for children...” and that “there is overwhelming scientific evidence that using physical discipline to punish children: is ineffective in teaching responsible behavior; impacts normal brain development; delays language development; increases the likelihood of abuse and injury in children; increases aggression in pre-school and school-aged children; increases the likelihood that children will become more defiant and aggressive; teaches children that aggression is an acceptable method of problem solving; increases mental health disorders in children; and has a negative effect on the parent- child relationship.”

We are grateful for both the Department of Human Services and the Department of Health for their leadership and partnership in the work of caring for our keiki and families across our state.

Every keiki in Hawaii deserves a safe and nurturing home.

Early childhood neuroscience is clear that the first 1,000 days of each life provides the foundation for future development. Working with parents and their keiki at an early age to promote healthy child development, school readiness, nurturing parenting skills, and reduce toxic family stress is critical for future success. Child abuse prevention programs have played a critical role in ensuring that parents and keiki get the support they need to help them create strong foundations needed to build upon for future success. These programs provide quality care

for both a child along with their family during the most critical years of a child's development increasing future health, educational, social and emotional development for a child and their entire family network. As a provider of child abuse prevention programs in Hawaii, Parents And Children Together supports the creation of a task force to provide expertise on and support safe and effective discipline in Hawaii.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building and economic development programs.

Thank you for the opportunity to provide testimony in support of **SCR 14 and SR 15**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

Date: Tuesday, February 18, 2020 at 2:45pm
To: Chair Ruderman, Chair Baker and members of the Committees
RE: **Support for SCR14, SR15; Relating to Safe and Effective Discipline**

The Early Childhood Action Strategy (ECAS) is a statewide public-private collaborative designed to improve the system of care for Hawai'i's youngest children and their families.

ECAS supports passage of SCR14, SR15, which asks the Department of Human Services, in collaboration with the Department of Health, to convene a task force to review and establish guidelines for safe and effective discipline for children in Hawai'i.

There are important reasons to review disciplinary practices at this time. Research has shown that striking a child, yelling at or shaming them can elevate stress hormones and lead to changes in the brain's architecture.¹ According to the American Academy of Pediatrics, corporal punishment can lead to increased aggression by school-aged children.¹

Adolescents who receive physical punishment are three times more likely to grow up to abuse their own children.²

Physical punishment also appears to negatively impact cognitive development. Children who were spanked are more likely to fall behind on age-appropriate measures of cognitive development.²

For all of these reasons, we urge the committee to support passage of this measure.

Thank you for the opportunity to submit testimony.

¹ AAP Says Spanking Harms Children. <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Says-Spanking-Harms-Children.aspx>

²Murray A. Straus & Mallie J. Paschall (2009) Corporal Punishment by Mothers and Development of Children's Cognitive Ability: A Longitudinal Study of Two Nationally Representative Age Cohorts, Journal of Aggression, Maltreatment & Trauma, 18:5, 459-483, DOI: [10.1080/10926770903035168](https://doi.org/10.1080/10926770903035168)



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senator Ruderman, Chair
Senator Rhoads, Vice Chair
Senate Committee on Human Services

Senator Baker, Chair
Senator Chang, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: **SCR 14 and SR 15**
Hawai'i State Capitol, Room 016
2:45 PM, 2/19/2020

Chair Ruderman, Chair Baker, Vice Chair Rhoads, Vice Chair Chang, and committee members,

On behalf of Hawai'i Children's Action Network Speaks! I am writing in **SUPPORT** of SCR 14 and SR 14, requesting the Department of Human Services in collaboration with the Department of Health, to convene a task force to establish safe and effective discipline for all children in Hawaii.

The American Academy of Pediatrics issued a statement declaring the use of corporal punishment an ineffective disciplining technique¹. This builds on the previous recommendation of discouraging the use of corporal punishment and is founded in research that using corporal punishment can have long-term negative impacts to the child, including increased aggression in school and increased mental health disorders.

In Hawai'i, corporal punishment was used against the royal children in the High Chiefs' Children's School by the missionaries because the missionaries believed the children were "ignorant, sinful, and unruly lower citizens".² Additionally, corporal punishment was not part of the traditional child rearing practices³. We should move away from the harmful and ineffective practices of colonization. However in moving away from corporal punishment, we need to recognize the trap that many Native Hawaiian families have fallen into by adopting the use of corporal punishment and becoming the recipients of services by Child Welfare. Therefore, representation of a culturally based family strengthening program may be a welcome addition to the task force.

Corporal punishment has no place in our families and discipline system today. **For these reasons, HCAN SPEAKS! respectfully requests the Committee to support these measures.**

Thank you.

¹ <https://www.aappublications.org/news/2018/11/05/discipline110518>

² Keahiolalo-Karauda, RaeDeen, "A genealogy of punishment in Hawai'i: the public hanging of chief kamanawa II" http://www.ksbe.edu/assets/spi/hulili/hulili_vol_6/7_A_Genealogy_of_Punishment_in_Hawaii.pdf

³ "The Roles of Family Obligation and Parenting Practices in Explaining the Well-Being of Native Hawaiian Adolescents Living in Poverty", http://kamehamehapublishing.org/assets/publishing/hulili/Hulili_Vol3_7.pdf

SCR-14

Submitted on: 2/15/2020 1:24:38 PM

Testimony for HMS on 2/19/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

The Government should not be allowed to interfere with the Family unit unless one of the Parentes have been charge with abuse or Sexual abuse before. If there has bin no charges then the Government has to say out of this. The Government will be held liable and Sued if they Violate this.

SCR-14

Submitted on: 2/16/2020 3:02:00 PM

Testimony for HMS on 2/19/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Support	No

Comments:

I strongly support the establishing of a task force

I strongly suggest that the task force describe what will be considered as

1. Safe and effective methods of discipline and teaching;

Without any ambiguity!!

2. Make a recommendation to the Legislature on whether corporal punishment of children by their parents or other caregivers should be banned or otherwise limited in Hawaii

I strongly support that corporal punishment be BANNED!! Too many cases have already hit the media where the children have been MURDERED and maimed by parents and caregivers. It is a disgrace. Not all cases make it to the media. All of us who have lived in Hawaii for awhile remember and will always remember PETER BOY KEMA.

Then we need to look at consequences if corporal punishment is banned.

Senator Baker, Senator Chang and Members of the Committee on Commerce, Consumer Protection, and Health

I am in **strong support** of S.C.R. 14

In 1973, Hawai'i became the third State to ban corporal punishment in schools; now legal in only 18 states and practiced in 15. It now has an opportunity to lead the nation by expanding the use of safe and effective discipline and restricting the use of physical force with the intention of causing a child to experience pain so as to correct their misbehavior. On November 5, 2018 the American Academy of Pediatrics (AAP), an organization of more than 67,000 pediatricians, released its new policy statement on discipline stating: "Parents, other caregivers, and adults interacting with children and adolescents should not use corporal punishment either in anger or as a punishment for or consequence of misbehavior, nor should they use any disciplinary strategy, including verbal abuse, that causes shame or humiliation." Published in the December 2018 issue of Pediatrics, nearly 100 scientific publications led them to the conclusion that not only is corporal punishment ineffective but there are numerous negative outcomes when parents spank children. These include; increased likelihood of injury in infants; negative affect on the parent child relationship; increased aggression in pre-school and school aged children; increased likelihood children will become more defiant and aggressive; an increased risk of mental health disorders; and many outcomes similar to children who experience physical abuse. Scientific evidence has finally caught up with conventional belief; the world is not flat and spanking is not in a child or parent's best interest.

As a practicing pediatrician and member of the AAP for over 45 years, I have cited the views of my professional organization. The AAP joined many other professional societies in proposing the elimination of physical punishment. In fact, 58 countries have already enacted legislation banning corporal punishment, and the United States Centers for Disease Control and Prevention (CDC) has called for States to enact legislation to ban corporal punishment.

While the primary purpose of the proposed task force is to evaluate the best method for disseminating skills for parents to safely and effectively discipline children, it is also charged with whether to make a recommendation to the legislature to limit the use of force in disciplining children.

It is my opinion that there are currently no legal barriers to Hawai'i enacting legislation in protecting children from being physically harmed. It had been mistakenly justified as a privacy right of parents in disciplining children. As there is no evidence it is an effective disciplinary measure and substantial evidence it is harmful, the time has come to regard inflicting pain on children in the same manner in which we view this act when perpetrated against adults.

The US Constitution has been interpreted to guarantee privacy rights of parents to raise children in the manner they see fit. The US Supreme court in several cases involving education and distribution of religious materials did provide parents substantial rights to the manner in which they raise children. However, with respect to corporal punishment, the US Supreme

Court in Ingraham declared the US constitution did not address corporal punishment in schools, but it only applied to prisoners as granted by the 8th Amendment. It has refused certiorari on other corporal punishment cases leaving States jurisdiction over corporal punishment.

So what does Hawaii say about corporal punishment?

Article 1, Section 5 of the Hawaii Constitution grants persons civil rights and is often broadly interpreted to allow parents considerable latitude in child rearing. This is consistent with the above US Supreme Court decisions. However, it does not mention discipline and Hawaii has longstanding laws prohibiting child abuse.

In 2012 the Hawaii Supreme Court provided an Opinion in *Hamilton v Lethem* (SCWC-27580, Feb 07, 2012). They held that “parents have a constitutional right to discipline children inhering in their liberty interest in the care, custody and control of their children under the due process clause, article 1, section 5 of the Hawai’i Constitution.” While ruling on other aspects of the case they offered no ruling on corporal punishment.

They did however provide background information on corporal punishment that provides a window on why the legal system allows physical pain to be inflicted on children but not prisoners. Selected passages are followed by my commentary

P 2 “trial courts shall consider whether the discipline is reasonably related to the purpose of safeguarding or promoting the welfare of the minor in determining whether the parent’s conduct constituted abuse or discipline’

P12-13 “parents do not have a right to abuse their children.” *Hamilton III*, 2011 WL 2611284, at*5-13 (App. Jun. 30, 2011)

P 14 The court reiterates parents right to discipline as codified in HRS 703-309 but raised concerns because “there is a potential due process violation because parents are left without notice as to what conduct constitutes abuse and courts will apply their own ad hoc sense of what standards are”

Section IV pgs 15,16, 17 provide findings in

Re Doe, 99 Hawaii 522 (2002) citing *Troxel v Granville* 530 US (2000) guaranteeing parents liberty interest in care, custody and control of children

But, p 15 “The court has not been squarely presented with the question whether the right to care for children also includes a right to use corporal punishment to discipline them.” *Sweeney v Ada County, Idaho*, 119 (9thCir. 1997) holding that there is no clearly established federal constitutional right of a parent to inflict corporal punishment on a child.”

The ruling then states “the Court has decided a number of cases that **suggest** it would recognize a parent’s right to use corporal punishment”, citing Troxel (2000) and Parham (1979) though these cases were about other parental rights and do not address corporal punishment.

Only in *Ingraham v Wright* 430 US (1977) was there a suggestion that parents are privileged to use force to discipline their children inasmuch as the court observed that the prevalent rule in this country permits teachers to use “such force as the teacher...reasonably believes to be necessary for (the child’s) proper control, training or education’.

But that was 1977 when 44 states allowed corporal punishment. It is now only legal in 18.

Ingraham also states “public opinion is sharply divided on corporal punishment for more than a century but we can discern no trend towards its elimination”. Yes, but prior to the AAP policy statement, a survey documented 92% are opposed to corporal punishment. It is also the responsibility of government to actively protect its citizens from harm rather than wait for a trend to elimination.

In the 1970s and 1980s Iowa, Virginia and Rhode Island (Ingraham pp 28-29) had cases where the state permitted reasonable or moderate corporal punishment. Only in *State v Crouse*, 81 Hawai’i 5 (1996) is there language stating “that it is well established that parents have a privilege to subject children to reasonable corporal punishment.”

On p 30 determination of whether a parent’s conduct is reasonably related to discipline was based on a survey of authorities in 1965 (That was 4 years before we landed on the moon; the world is different now)

It was also well-established then, parents were not using car seats for infants. Being “well established” didn’t mean it was safe then and it is not legal now. Laws can change harmful behaviors.

Additionally pages 18-23 talk about the challenges of drawing a clear line between discipline and abuse. This would be eliminated by prohibiting corporal punishment as a parental right considered permissible within their effort to discipline. It seems reasonable to retain the use of force to restrain a child from hurting herself or others.

Pages 26-28 discuss reasonableness in discipline to affect the welfare of the child. However, the AAP’s landmark policy documents corporal punishment hurts rather than help’s a child’s welfare.

On p 31 the court goes on to say: “the appropriate standard for family courts...is whether the parent’s discipline is reasonably related to the purpose of safeguarding or promoting the welfare of the minor”. Again, the scientific evidence conclusively indicates corporal punishment has the opposite impact

So the Hawai'i Court upholds the constitutional right of parents to discipline but has not ruled on parents right to inflict corporal punishment. There does not appear a legislative or judicial history to support corporal punishment in Hawai'i.

I believe it is time to address this issue in a systematic fashion by establishing a task force to: consider which of many existing programs are most effective in promoting safe and effective discipline; determine the best approach for dissemination of the knowledge and skills for parents; and consider whether to propose legislative action to have Hawai'i lead a movement to eliminate the purposeful infliction of pain and its negative consequences on children.

Robert H. Pantell, MD
Kailua