

FEB 28 2008

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## SENATE CONCURRENT RESOLUTION

RECOGNIZING AND SUPPORTING THE FUNDAMENTAL RIGHT OF PARENTS AND  
GUARDIANS TO DIRECT THE EDUCATION AND UPBRINGING OF THEIR  
CHILDREN.

1           WHEREAS, in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), the  
2 United States Supreme Court acknowledged that the "history and  
3 culture of Western civilization reflect a strong tradition of  
4 parental concern for the nurture and upbringing of their  
5 children. This primary role of the parents in the upbringing of  
6 their children is now established beyond debate as an enduring  
7 American tradition"; and

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9           WHEREAS, the Fourteenth Amendment of the United States  
10 Constitution provides that no state shall deprive any person of  
11 life, liberty, or property without due process of law; and

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13           WHEREAS, in *Meyer v. State of Nebraska*, 262 U.S. 390  
14 (1921), the United States Supreme Court concluded that the  
15 constitutionally protected liberty includes the right of an  
16 individual to establish a home and bring up children, further  
17 adding that "it is the natural duty of the parent to give his  
18 children education suitable to their station in life"; and

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20           WHEREAS, in *Pierce v. Society of the Sisters of the Holy*  
21 *Names of Jesus and Mary*, 268 U.S. 510 (1925), the Supreme Court  
22 acknowledged that a child is "not the mere creature of the  
23 state; those who nurture him and direct his destiny have the  
24 right, coupled with the high duty, to recognize and prepare him  
25 for additional obligations"; and

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27           WHEREAS, in subsequent cases, the United States Supreme  
28 Court has consistently recognized the fundamental right of  
29 parents to make decisions concerning the care, custody, and



1 control of their children, stating in a 2000 opinion that "it  
2 cannot now be doubted that the Due Process Clause of the  
3 Fourteen Amendment protects the fundamental right of parents to  
4 make decisions concerning the care, custody, and control of  
5 their children"; and

6  
7 WHEREAS, similarly, in ancient as well as modern Hawaiian  
8 culture, the concept of family, or ohana, is of central  
9 importance; the responsibilities and privileges of parenting,  
10 guardianship, and advocacy for children are opportunities to  
11 enable a child's life to be meaningful; and

12  
13 WHEREAS, the present culture in Hawaii is built on the  
14 foundations of its multi-ethnic and multi-cultural population  
15 ohana that depends upon parents making important and appropriate  
16 decisions on the safety, education, and well-being for their  
17 children; and

18  
19 WHEREAS, government interference with the rights of parents  
20 to raise their children is permissible only to prevent harm or  
21 potential harm to a child; now, therefore,

22  
23 BE IT RESOLVED by the Senate of the Twenty-fourth  
24 Legislature of the State of Hawaii, Regular Session of 2008, the  
25 House of Representatives concurring, that the Legislature  
26 recognizes and supports the traditional and constitutionally  
27 protected right of parents to make decisions relating to the  
28 care, custody, and control of their children and further  
29 recognizes that governmental interference with parental rights  
30 is permissible only to prevent injury or potential injury to a  
31 child; and

32  
33 BE IT FURTHER RESOLVED that certified copies of this  
34 Concurrent Resolution be transmitted to the Governor, Attorney  
35 General, Chairperson of the Board of Education, Superintendent  
36 of Education, Director of Health, Director of Human Services,  
37 and Director of Public Safety.

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40 OFFERED BY:

*Mike Gabbard*

*Clara K. Machiko*  
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