

FEB 28 2008

SENATE 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
30 control of their children, stating in a 2000 opinion that "it
31 cannot now be doubted that the Due Process Clause of the



1 Fourteen Amendment protects the fundamental right of parents to
2 make decisions concerning the care, custody, and control of
3 their children"; and

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

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

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

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

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

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37 OFFERED BY: Mike Gabbard
Clarence K. Sisti

