

JAN 18 2019

A BILL FOR AN ACT

RELATING TO SAFE AND EFFECTIVE DISCIPLINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in December 2018,
2 the American Academy of Pediatrics, an organization of nearly
3 70,000 pediatricians, issued a policy statement stating:
4 "Parents, other caregivers, and adults interacting with children
5 should not use corporal punishment . . . nor any strategy,
6 including verbal abuse, that causes shame or humiliation." The
7 nearly one hundred references in the statement provide
8 scientific evidence that not only is corporal punishment
9 ineffective, but it also traumatizes many children leading to
10 long term poor outcomes. The statement also recommends numerous
11 safe and effective methods of discipline that are scientifically
12 documented to be effective and can be taught by health
13 professionals, hospitals, and community organizations.

14 The legislature further finds that Hawai'i became the third
15 state to ban corporal punishment in schools in 1973 and adopted
16 a concurrent resolution against corporal punishment in the
17 1990s.



1 Accordingly, the purpose of this Act is to continue this
2 legislative trend by addressing the use of corporal punishment
3 as a form of discipline in Hawai'i by:

- 4 (1) Educating parents on safe and effective discipline
5 methods as alternatives to corporal punishment; and
6 (2) Prohibiting the use of corporal punishment beginning
7 in 2023.

8 SECTION 2. Section 302A-1141, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§302A-1141 Punishment of pupils limited.** No physical
11 punishment of any kind may be inflicted upon any pupil, except
12 as provided for under [~~sections~~] section 302A-1141.4 [~~and 703-~~
13 ~~309(2)~~]."

14 SECTION 3. Section 703-309, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§703-309 Use of force by persons with special**
17 **responsibility for care, discipline, or safety of others.** The
18 use of force upon or toward the person of another is justifiable
19 under the following circumstances:

20 ~~[-(1) The actor is the parent, guardian, or other person~~
21 ~~similarly responsible for the general care and~~



S.B. NO. 1015

1 ~~supervision of a minor, or a person acting at the~~
2 ~~request of the parent, guardian, or other responsible~~
3 ~~person, and:~~

4 ~~(a) The force is employed with due regard for the age~~
5 ~~and size of the minor and is reasonably related~~
6 ~~to the purpose of safeguarding or promoting the~~
7 ~~welfare of the minor, including the prevention or~~
8 ~~punishment of the minor's misconduct; provided~~
9 ~~that there shall be a rebuttable presumption that~~
10 ~~the following types of force are not justifiable~~
11 ~~for purposes of this [paragraph]: throwing,~~
12 ~~kicking, burning, biting, cutting, striking with~~
13 ~~a closed fist, shaking a minor under three years~~
14 ~~of age, interfering with breathing, or~~
15 ~~threatening with a deadly weapon; and~~

16 ~~(b) The force used does not intentionally, knowingly,~~
17 ~~recklessly, or negligently create a risk of~~
18 ~~causing substantial bodily injury, disfigurement,~~
19 ~~extreme pain or mental distress, or neurological~~
20 ~~damage.~~



S.B. NO. 1015

- 1 ~~(2) The actor is a principal, the principal's agent, a~~
2 ~~teacher, or a person otherwise entrusted with the care~~
3 ~~or supervision for a special purpose of a minor, and:~~
- 4 ~~(a) The actor believes that the force used is~~
5 ~~necessary to further that special purpose,~~
6 ~~including maintenance of reasonable discipline in~~
7 ~~a school, class, other group, or at activities~~
8 ~~supervised by the department of education held on~~
9 ~~or off school property and that the use of force~~
10 ~~is consistent with the welfare of the minor, and~~
- 11 ~~(b) The degree of force, if it had been used by the~~
12 ~~parent or guardian of the minor, would not be~~
13 ~~unjustifiable under paragraph (1).~~
- 14 ~~(3)]~~ (1) The actor is the guardian or other person
15 similarly responsible for the general care and
16 supervision of an incompetent person, and:
- 17 (a) The force is employed with due regard for the age
18 and size of the incompetent person and is
19 reasonably related to the purpose of safeguarding
20 or promoting the welfare of the incompetent
21 person, including the prevention of the



S.B. NO. 1015

1 incompetent person's misconduct, or, when such
2 incompetent person is in a hospital or other
3 institution for the incompetent person's care and
4 custody, for the maintenance of reasonable
5 discipline in the institution; and

6 (b) The force used is not designed to cause or known
7 to create a risk of causing substantial bodily
8 injury, disfigurement, extreme pain or mental
9 distress, or neurological damage.

10 [~~4~~] (2) The actor is a doctor or other therapist or a
11 person assisting the doctor or therapist at the
12 doctor's or therapist's direction, and:

13 (a) The force is used for the purpose of
14 administering a recognized form of treatment
15 which the actor believes to be adapted to
16 promoting the physical or mental health of the
17 patient; and

18 (b) The treatment is administered with the consent of
19 the patient, or, if the patient is a minor or an
20 incompetent person, with the consent of the
21 minor's or incompetent person's parent or



1 guardian or other person legally competent to
2 consent in the minor's or incompetent person's
3 behalf, or the treatment is administered in an
4 emergency when the actor believes that no one
5 competent to consent can be consulted and that a
6 reasonable person, wishing to safeguard the
7 welfare of the patient, would consent.

8 ~~[(5)]~~ (3) The actor is a warden or other authorized
9 official of a correctional institution, and:

10 (a) The actor believes that the force used is
11 necessary for the purpose of enforcing the lawful
12 rules or procedures of the institution;

13 (b) The nature or degree of force used is not
14 forbidden by other provisions of the law
15 governing the conduct of correctional
16 institutions; and

17 (c) If deadly force is used, its use is otherwise
18 justifiable under this chapter.

19 ~~[(6)]~~ (4) The actor is a person responsible for the safety
20 of a vessel or an aircraft or a person acting at the



1 direction of the person responsible for the safety of
2 a vessel or an aircraft, and:

3 (a) The actor believes that the force used is
4 necessary to prevent interference with the
5 operation of the vessel or aircraft or
6 obstruction of the execution of a lawful order,
7 unless the actor's belief in the lawfulness of
8 the order is erroneous and the actor's error is
9 due to ignorance or mistake as to the law
10 defining authority; and

11 (b) If deadly force is used, its use is otherwise
12 justifiable under this chapter.

13 ~~(7)~~ (5) The actor is a person who is authorized or
14 required by law to maintain order or decorum in a
15 vehicle, train, or other carrier, or in a place where
16 others are assembled, and:

17 (a) The actor believes that the force used is
18 necessary for that purpose; and

19 (b) The force used is not designed to cause or known
20 to create a substantial risk of causing death,
21 bodily injury or extreme mental distress."



S.B. NO. 1015

1 SECTION 4. No later than July 1, 2019, the department of
2 health, in collaboration with the department of human services
3 and department of education, shall develop and implement an
4 educational program to inform parents of safe and effective
5 discipline strategies for children and the risks associated with
6 the use of corporal punishment. The program shall cease by
7 June 30, 2023.

8 SECTION 5. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2019-2020 and
11 the same sum or so much thereof as may be necessary for fiscal
12 year 2020-2021 for an educational program to inform parents of
13 safe and effect discipline strategies.

14 The sums appropriated shall be expended by the department
15 of health for the purposes of this Act.

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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S.B. NO. 1015

1 SECTION 7. This Act shall take effect on July 1, 2019;
2 provided that sections 2 and 3 shall take effect on January 1,
3 2023.

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S.B. NO. 1015

Report Title:

Keiki Caucus; Corporal Punishment; Use of Force; Education Program; Appropriation

Description:

Repeals the justification of use of force by parents, guardians, teachers, and persons otherwise entrusted with the care or supervision of a minor on 1/1/2023. Appropriates funds for the department of health, in collaboration with the department of human services and department of education, to develop and implement an educational program to inform parents on safe and effective discipline methods as alternatives to corporal punishment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

