



Office of the Public Defender State of Hawaii

Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary



February 21, 2008, 2:45 p.m.

RE: H.B. 2476: Relating To Cruelty to Animals

Chair Waters and Members of the Committee:

This measure would repeal the current dog fighting statute and replace it with a new, more comprehensive dog fighting law.

The Office of the Public Defender opposes H.B. 2476.

Section 1(b)(vi) of this measure would proscribe the “knowing possession of any dog used for a fight or any device intended to enhance the animal’s fighting ability.” This provision would make any animal shelter, Humane Society, or individual who knowingly possesses a fighting dog in an attempt to rescue it from its previous owner guilty of a class C felony. This measure makes no distinction between the lawful ownership of a dog formerly trained for fighting and the owner of a dog currently being used for fighting, or intended to be used for fighting.

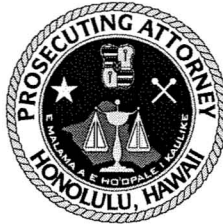
We also oppose the imposition of mandatory jail in this measure. Anyone convicted of a second or subsequent offense would be subject to five years imprisonment or probation with a mandatory thirty day jail sentence. Not all of the people present at dog or chicken fights bear the same degree of culpability, and our courts should have the discretion to sentence them accordingly. There is a significant difference between a dog trainer or owner of a fighting dog, and a non-gambling bystander who is “knowingly present” at a fight. Under this measure, both individuals would be subject to same mandatory jail sentence. Innocent family members who reside with a dog owner or trainer should not receive the same treatment as the owner or trainer. Furthermore, the progressive sentencing scheme would prohibit even a first-time offender from obtaining a deferred acceptance of guilty or no contest plea. If this measure passes, the only way for a court to grant a deferral would be to include specific language within the dog fighting law.

We oppose H.B. 2476. Thank you for the opportunity to comment on this bill.

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DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
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AREA CODE 808 • 527-6516



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DOUGLAS S. CHIN
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THE HONORABLE TOMMY WATERS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

February 21, 2008

RE: H.B. 2476; RELATING TO CRUELTY TO ANIMALS.

Chair Waters and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following comments on H.B. 2476.

The purpose of this bill is to Hawaii Revised Statutes section 711-1109.3 relating to the offense of cruelty to animals by dog fighting and replace it with a new section relating to cruelty to animals by dog fighting.

We would like to note that the portion of this bill that provides that a person present at a dog fight is deemed to be encourage a fight between dogs for money or entertainment may be unconstitutional. In 1968, the Hawaii Supreme Court in State v. Abellano, 50 Haw. 384 (1968) struck down an ordinance that prohibited a person's presence at a cockfighting exhibition as being too vague to satisfy the requirements of due process. A subsequent case, State v. Shigematsu, 52 Haw. 604 (1971) went further and struck down a statute prohibiting a person's presence in a room barricaded or otherwise built or protected to make access or ingress to police officer difficult and where gambling implements are exhibited or exposed; in striking down the statute, the Shigematsu court stated:

As we have stated, there is no question that the State may in the exercise of its police power enact legislation to proscribe gambling and thereby suppress the evils connected therewith. However, recognizing that the statute places an unlimited and indiscriminately sweeping infringement upon the freedom of movement and association, we believe that the statute goes much further than necessary to achieve its purpose. We hold that the statute violates Art. I, Sec. 2 of the Hawaii State Constitution and, therefore, is void and unenforceable.

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For this reason, we suggest deletion of the phrase “is knowingly present at or” on line 11 of page 1 of the bill if this committee intends to pass the bill out.

Thank you for this opportunity to testify.

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JUDtestimony

From: Cathy Goeggel [puaa@hawaii.rr.com]
Sent: Tuesday, February 19, 2008 5:39 PM
To: JUDtestimony
Subject: HB2476

Please deliver testimony for hearing: Thursday, Feb 21, 2008 @2:45 pm in Conference Room 325- Mahalo!

Chair Waters and members of the Judiciary Committee:
position: support with amendments

The horrible conditions of dogs used in fighting was publicized by the Michael Vicks case. Sadly, this disgusting practice continues, and we support increased penalties for such activities. We do, however, ask that there be no exemption for hunting dogs.

In Hawai'i, dogs used in hunting are rarely given veterinary care; they are trained to harry and savage prey; this training makes them potentially dangerous in our community. We also have concerns for the welfare of hunting dogs as well. Hunting with dogs is barbaric and should be banned.

With aloha,

Cathy Goeggel
Director, Research and Investigations
Animal Rights Hawai'i
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2/21/2008



**THE HUMANE SOCIETY
OF THE UNITED STATES**

**Written Testimony of The Humane Society of the United States
In Support of H.B. 2476
House Committee on Judiciary
February 21, 2008**

On behalf of the over 46,000 members and supporters of The Humane Society of the United States (HSUS) in the state of Hawaii, I would like to thank the House Judiciary Committee for considering this testimony in support of H.B. 2476, legislation to strengthen Hawaii's dogfighting law. I would also like to thank Representative Mizuno for introducing this legislation.

Dogfighting is a Problem

Dogfighting is an extremely inhumane and violent activity. It involves the pitting of two dogs against one another to fight, many times for over an hour, often to the death, for the sole purpose of gambling and entertainment. Dogs used for fighting are bred and trained to be aggressive. They are often drugged and mistreated to foster an aggressive disposition. For dogs who survive a dogfight, injuries are severe and include broken bones, deep gashes, blood loss, shock and infection. Rarely are these injuries appropriately treated.

Dogfighting is a threat to public safety and is associated with other criminal activities such as gambling, weapons possession, narcotics, and various violent crimes. Dogs used for fighting are a risk to communities in Hawaii. In many situations where a vicious dog has mauled an innocent child or neighbor, the dog also exhibits signs of being trained and used for fighting.

A recent three-year study done by the Chicago Police Department found that 70% of people arrested for animal abuse crimes have also been arrested for other felonies including domestic and aggravated battery, illegal drug trafficking and sex crimes. Study after study shows the direct link between animal abuse crimes and human abuse.

Hawaii's Current Law

While Hawaii has felony level penalties for participating in dogfighting and possessing dogs for fighting, it is one of only four states where being a spectator at a dogfight is completely legal. H.B. 2476 would strengthen Hawaii's law considerably by making it a felony to be spectator or wager on a dogfight. It also prohibits transporting, breeding, or equipping a dog with the intent to fight the dog, and prohibits boarding, training, or housing a dog for fighting.

Spectators are Crucial to Promoting Dogfights

The role of a spectator at a dogfight is more than a mere observer. Spectators play two crucial roles; they are often participants in dogfights and they finance them.

In an organized dogfight, there are often several rounds during an event. Many spectators at one round are there to participate as dogfighters in another round. When law enforcement officials

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raid a dogfight, it is difficult to determine who is a participant. With weaker spectator penalties, there is a loophole in the law that allows dogfighters to be charged with much weaker penalties.

Spectators finance the organization and promotion of dogfights. The primary motivation for dogfighting is financial. Spectators often pay an admission, as high as \$100 per person. Spectators also gamble on dogfights, sometimes thousands of dollars on one fight. Without the spectator element, organized dogfighting would not flourish. Spectators play a huge role in dogfighting and the law needs to reflect that.

Those who attend dogfights are accomplices who enable an illegal activity. But having felony penalties to attend dogfights will put teeth in existing law, and also give prosecutors leverage to coerce spectators to testify against dogfighting participants. H.B. 2476 will strengthen the dogfighting law and help crack down on this cruel and violent activity.

Thank you again for the opportunity to provide written testimony in favor of H.B. 2476. In light of the violence and cruelty associated with dogfighting, as well as the threat it is to public safety, we hope you will support H.B. 2476.

Please feel free to contact me with any questions or for additional information.

Inga Gibson, State Director
The Humane Society of the United States
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(206)669-4330

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JUDtestimony

From: Joel Fischer [REDACTED]
Sent: Wednesday, February 20, 2008 11:22 AM
To: JUDtestimony
Subject: HB2476; JUD; 2/21; 2:45; Rm 325

Importance: High

HB2476, Relating to Cruelty to Animals
JUD; Chair, Rep Waters

PLEASE PASS THIS BILL.

Thank you very much for hearing this bill.

In the wake of the horrendous news about Michael Vick and his dog-fighting conviction, and yesterday's news about the busting of a huge dog-fighting ring in Texas, every legislator knows why we need this bill. The cruelty and inhumanity of dog fighting has been exposed. The need to prevent dog fighting is obvious.

By enacting more comprehensive legislation and enhanced penalties against those who view animal cruelty as "sport," we will have taken a major step toward stopping this horrendous practice.

Thank you.

Aloha, joel

Dr. Joel Fischer, ACSW
President, 19-3, Democratic Party

Professor
University of Hawai'i, School of Social Work Henke Hall Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill

C00113

JUDtestimony

From: Marie Cooper-Martinez [REDACTED]
Sent: Wednesday, February 20, 2008 7:21 PM
To: JUDtestimony
Subject: Testimony

Honorable Rep. Waters,

I would like to voice my support for any measure that enhances, and strengthens our current bill regarding dog fighting, and other animal cruelty matters. The most recent case that shows a need for this is the one where a gentleman killed a family's pet pig as they pleaded with him to stop. I believe another case involving a pet pig occurred around that time, too. If there is any truth to the correlation between animal cruelty and the tendency to abuse humans, as well, we have to be concerned. If we allow people to get away with such violent behavior towards animals, we will be releasing a potential killer, or domestic abuser into our communities. In light of recent domestic violence cases, do we need more?

I am also for very stiff penalties and fines for those who participate in any way, shape, or form, in the barbaric and cruel "sport" of dogfighting. I have always owned dogs and have always regarded them as family members. I can't see dogs in any other light, especially in a fighting ring. I am so appalled by anyone having anything to do with this sort of so called entertainment. It is sick, it is deviant. Dogfighting is no life for a dog. It also breeds organized crime, illegal gaming, money laundering, you name it. If it's illegal, it's going to have several of these aspects involved. Many dogs have to be destroyed because their injuries are too severe, or because they are deemed too vicious to be placed in homes. I love pitbulls and the ones I have had have been wonderfully docile, and loving. Dogfighting is giving this breed a bad rep, and they are being outlawed in several cities because of the way they are portrayed in dogfighting circles. In my eyes, all dogs are good. It's the people who raise them to be fighters, raise them to be vicious, that are no good.

Penalties and fines have to be stiff. No slap on the wrist. These people who perpetuate such acts against animals have to know that there is zero tolerance if they are caught. Imprisonment is a must. In severe cases, we should allow forfeiture of property and assets if the perpetrator is found to have bankrolled a lifestyle at the expense of these dogs. We also need to educate our children to have more respect and compassion for animals so that they grow up to learn hurting defenseless animals is wrong, and you can be punished for if you are caught.

Mahalo Rep. Waters for your time and kokua. I know that as a dog owner, you will do everything in your power to strengthen and enhance our current laws against animal cruelty matters, and dogfighting.

Aloha,
Marie Cooper-Martinez

Aloha!
Marie Cooper-Martinez
Honolulu, HI

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2/21/2008

JUDtestimony

From: ALBERTOrchidal [REDACTED]
Sent: Wednesday, February 20, 2008 12:45 PM
To: JUDtestimony
Subject: Testimony

In the year 2008 it is nearly impossible to believe that any civilized people are condoning or promoting dogfighting. Dogs are no longer needed for hourly protection. It is our turn to protect them from such brutality at all times. We have too much violence in the world we cannot accept dogfighting as peaceful.


Ideas to please picky eaters. Watch video on AOL Living.
(<http://living.aol.com/video/how-to-please-your-picky-eater/rachel-campos-duffy/2050827?NCID=aolcmp00300000002598>)

C00115

To the House Judiciary Committee:

Please pass this bill. Using animals to provide vicarious sadistic impulses an outlet is inhumane and completely unacceptable. It is bad enough that people engage in violence; it is revolting that some people abuse dogs in order to engage in "sport." There is nothing sporting about abusing dogs in this manner. People engaged in this type of thing should be fully punished by the law. Please help end this vicious practice.

Sincerely,
Lili-Marlene Rose


Waipahu, HI 96797

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