

SB2396

Measure Title:
RELATING TO MENTAL HEALTH.

Report Title:
Assault; Mental Health Facilities

Description:
Makes assault of a person employed at a state-operated or -contracted mental health facility a class C felony.

Introducer(s):
HEE, TOKUDA

Current Referral:
HTH, JDL



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO

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The Twenty-Fourth Legislature, State of Hawaii

Hawaii State Senate
Committee on Health

Testimony by
HGEA/AFSCME, Local 152, AFL-CIO
February 11, 2008

L A T E

S.B. 2396 – RELATING TO
MENTAL HEALTH

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2396. We believe that violence against health care workers should be added to the offenses of assault in the second degree. Similar protection already exists for teachers, other educational workers emergency medical technicians, and employees who work in a correctional or detention facility.

This legislation will send a message that if a patient or family member seriously assaults a nurse or other health care worker, that person can be prosecuted and put in prison. The Bureau of Labor Statistics found that health care providers are at 16 times greater risk for violence than other workers. Health care workers have significantly higher rates of on-the-job nonfatal assaults. Nurses are often the primary targets of nonfatal assaults and psychiatric nurses have the highest rate of assault. At the Hawaii State Hospital, nurses and other workers have been the targets of serious assaults by patients.

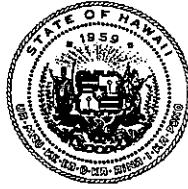
Violence against nurses includes a range of behavior from verbal abuse and threats to physical assault, and at the extreme homicide. Even the fear of assault or witnessing an assault on a co-worker can cause serious health problems for workers. The Occupational Safety and Health Administration (OSHA) in 1996 identified health care settings as workplaces at a greater risk for violence.

Nurses do not deserve to be subjected to violence while caring for patients and this bill should offer some protection. As a safeguard to persons under treatment, a provision is included which shields them from application of the law unless they knowingly or intentionally cause bodily injury.

Thank you for the opportunity to testify in support of this important legislation.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
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In reply, please refer to:
File:

Senate Committee on Health

S.B. 2396, RELATING TO MENTAL HEALTH

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 11, 2008, 1:15 p.m.

1 **Department's Position:** The department supports this measure.

2 **Fiscal Implications:** No general fund expenditure.

3 **Purpose and Justification:** This proposal establishes a criminal charge for a person who "intentionally
4 or knowingly causes bodily injury to a person employed in a state operated or contracted mental health
5 facility" a Class C felony. Currently, such an assault could be charged as a misdemeanor.

6 Although most of the assaults on staff are quite minor (not causing any injury and not requiring
7 any treatment) a very small number can be serious. In addition, while most of the assaults are
8 committed by patients during the first part of their hospitalization or when they are acutely psychotic, a
9 very small number seem to be the result of patient behavior by an individual who has adequate self
10 control and who knows what he is doing. It is with respect to this latter group that it appears the
11 legislation is directed.

12 The department has worked over the course of the past year with the City and County of
13 Honolulu Police Department (HPD) to standardize and regularize their follow-up with the victim's
14 report of assault: The Hawaii State Hospital (HSH) has a much more effective communication and
15 coordination with HPD now than previously. Nevertheless, the proposed changes in this bill will align
16 legal treatment by specifically making assault on an HSH (or Kahi Mohala, or contracted unit) staff a

1 Class C felony, as it would be if the assault occurred either in a school or Correctional Facility. This can
2 be seen as a basic issue in fair treatment for the mental health professionals. If implemented, this
3 measure would resolve the potential contradiction of having a perpetrator who intentionally and
4 knowingly assaults an Adult Correction Officer (ACO) on one day be charged with a possible felony but
5 the same person the next day (in HSH) who intentionally and knowingly assaults a mental health
6 worker, or doctor, or nurse, be charged with a misdemeanor.

7 Thank you for the opportunity to testify on this important measure.