



**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 20, 2014, 2:00 p.m.

H.B. No. 1701: RELATING TO ASSAULT OF SPORTS OFFICIALS

Chair Rhoads and Members of the Committee:

This measure would make intentionally or knowingly causing bodily injury to a “sports official” a class C felony. In as much as this bill would elevate what would normally be treated as a misdemeanor offense to a felony, the Office of the Public Defender opposes H.B. 1701.

Intentionally or knowingly causing bodily injury (i.e. physical pain) to another person is a misdemeanor offense, punishable by up to one year in jail. If the same act is committed upon a specially protected class, such as an educational worker, emergency medical services provider and water safety officer, to name a few, the offense is classified as a C felony, punishable by up to five years in prison. This measure would add sports officials to the specially protected class of victims.

This bill is the latest in a line of proposals seeking to single out particular occupations for special treatment as a class of victims. This bill does not afford sports officials greater protection from harm. It does, however, serve as an impetus for other groups to seek out designation as a special class of victim. As lawmakers, you have seen this scenario play out with each successive session.

Special treatment or protection, however, is a misnomer. In reality, someone angry enough to approach a referee, official or umpire will be acting under extreme emotion and upon impulse. That person will not be deterred by the possibility of incurring a felony instead of a misdemeanor conviction. If protection of sports officials is a real concern, then adequate security at sporting events is the answer. Security, and a verbal warning of possible criminal consequences for confronting sports officials will do more to ensure the safety of sports officials than a specialized victim classification. Under this measure, it is very possible that a visiting college baseball coach, who chest bumps an umpire, could find himself under arrest for felony assault. The legal definition of bodily injury is physical pain, which is pain of any kind. The law does not require visible injuries or medical treatment to establish bodily injury.

The level of injury, state of mind, and actual conduct of the assailant should be the primary factors to be considered in determining the degree of assault committed. This bill disregards these factors in favor of protection based on occupation. Why is there no special treatment for convenience store clerks, process servers or taxi drivers, all of whom are subjected to physical assaults at a higher rate than sports officials?

We oppose the passage of H.B. No. 1701. Thank you for the opportunity to be heard on this matter.

LATE TESTIMONY
Written Testimony Presented Before the
House Committee on Judiciary
Thursday, February 20, 2014 at 1:00 p.m.
Ben Jay, Director of Athletics
University of Hawai'i at Mānoa Athletics Department

HB1701 – RELATING TO ASSAULT OF SPORTS OFFICIALS

Chair Rhoads, Vice Chair Har and members of the Committee:

My name is Ben Jay, and I serve as the director of the University of Hawai'i at Mānoa's Athletics Department. I am pleased to provide personal testimony in support of HB1701. This testimony does not represent the position of the University of Hawai'i or the Athletics Department.

HB1701 makes it a Class C felony to assault a sports official as a result of the performance of duty at a sports event.

I ask the committee to support HB1701 to provide a serious deterrent to assaulting officials, coaches, and others involved in providing our youth, and in the University's case, our student-athletes, with an appropriate competitive experience.

Thank you for the opportunity to provide written testimony.

LATE TESTIMONY

Name: Nelson Kajioka.

Committee: JUD

Date and time of hearing: February 20, 2014, 1:00 pm.

Measure number: HB1701.

Good afternoon House Committee members. Thank you for the opportunity to have my voice heard. I am here today to provide my testimony in FULL SUPPORT of measure HB1701 regarding assault on sports officials.

I am a youth sports player parent and coach in baseball, basketball, and soccer. In the short amount of time I have been exposed to the youth sports arena, I have become keenly aware of our "win at all costs" sports culture and our right to express dissatisfaction which often times is directed towards referees and coaches.

This culture is deeply rooted in our competitive nature and transcends from the highest professional level all the way down to the youth level. This competitiveness and at times, lack of respect for our sports officials brings out the worst in many of us, adult and youth alike. Most of the time it is only verbal... "COME ON REF! WHAT KIND OF CALL WAS THAT? ARE YOU BLIND?" or some other similar rant. But sometimes it goes beyond that...

Referees make calls. Coaches coach. Their duties aren't to please everyone, they aren't perfect, and they all make mistakes. They are human and thick skin is a requirement. But where do we draw the line where it is **LAWFULLY** unacceptable behavior? I believe that line is the moment the sport official's physical safety is in jeopardy and not after the harm has been done.

So why should we amend a law to provide special protection to sports officials? The answer is simple.

- 1) Assaults on sports officials appear to be a growing problem and I believe their safety is paramount. Upwards of 20 states in the US have adopted or enacted legislation to protect sports officials.¹ They are important figures in any regulated game and they should be able to perform their duties without bias from threat and fear of physical harm. Their safety should be valued no less than the protections afforded to other occupations such as emergency responders, police officers, and educators covered under the same HRS section of which this bill proposes to amend.
- 2) Sportsmanship in most, if not all, sports leagues are embraced by the league and *mandatory* to all those participating. Penalties are assessed when violated but there are no upper limits to say this is line where it is *lawfully*, under consequence, unacceptable. This bill will set that upper limit and will help supplement the leagues' expectations and attitudes towards sportsmanship.

¹ Source: National Association of Sports Officials (NASO) website at www.naso.org