

SB2621

LATE

TESTIMONY

Testimony of Nelson Kajioka to the State Senate Committee on Judiciary and Labor
February 25, 2014, 10:30 AM

S.B. No. 2621: Relating to Assault of Sports Officials

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

My name is Nelson Kajioka and I am a citizen concerned not only about the safety of sports officials, but more importantly, the lack of special legal protection of sports officials and its impacts on sports in Hawaii. I am pleased to provide written testimony in full support of S.B. 2621.

S.B. 2621 would make any person who intentionally or knowingly causes bodily injury to any sports official in retaliation for the sport's official's performance of a duty at a sports event a Class C felony. This measure would add sports officials to the specially protected class of victims including, correctional workers, educational workers, emergency medical service providers, fire fighters or water safety officers, to name a few as covered in the Hawaii Revised Statutes, section 707-711.

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. So why should the HRS be amended to provide special legal protection to sports officials? The answer is for the safety of the sports official before "bodily injury" is incurred through a deterrent of severe consequences.

Assaults on sports officials appear to be a growing problem. Upwards of 20 states in the United States have adopted or enacted legislation to protect sports officials.¹ Sports officials are figures of authority and critical in any regulated game. They should be able to perform their duties without bias from fear of physical harm. Their safety should be valued no less than the protections afforded to other occupations covered under the same HRS section of which this bill proposes to amend such as emergency responders, police officers, and educators.

Some may argue that sports officials are just another occupation seeking special treatment as a class of victim and that it serves as an impetus for other groups to seek out similar protections. This should not be a valid argument. The already protected occupations for reasons you, as lawmakers, have approved is the impetus by which this bill is proposed. As precedent, each and every occupation requesting consideration shall be individually considered against the intent and reasoning of the existing protected occupations. Sports officials are very similar to the class of educational workers in that they are both roles of authority and victims of emotional retaliation. This is completely different than being a victim of benefit. For example, taxi drivers and convenience store clerks are victims of benefit because the assailant is typically committing the crime for personal benefit in some way or other.

Another argument is that assaults on sports officials are usually under the pretense of impulse compounded with severe built-up emotions. Special protections (felony vice misdemeanor charges) won't deter this type of individual from acting out. In my opinion, this is partially correct but missing the entire point. The decision by someone to assault a sports official for retaliation doesn't happen before the

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

event, nor is it an impulse decision. Prior to the game, the individual is emotionally stable, coherent, and can tell right from wrong. The extreme anger and willingness to act out happens during the game and is a gradual build-up of emotions. This bill aims to establish the upper limit of legally acceptable behavior, its consequences, and to serve as a deterrent before such person arrives at the game or event.

Are there other means to provide actual protection to sports officials without amending the HRS? In my opinion, the answer is no. This bill is critical to the overall comprehensive approach to changing the culture of acceptable behavior. It starts with this bill providing the basis and foundation of which the upper limit of acceptable behavior and consequence is established. Sports leagues in their sportsmanship code of conduct and public education will follow to reinforce the enhanced laws with a zero tolerance approach. Lastly, in events where potential of threat is greater, security and other means of prevention shall be undertaken. Anything less won't change anything.

The intent of the current protected occupations, specifically educational workers, and the comparison with sports officials shall be considered carefully. Legal laws and enhanced consequences should be established to deter assaults on sports officials. The future of sports in Hawaii depends on changing the current culture, through public education, into one of respect for our sports officials and authority.

I support the passage of S.B. 2621. Thank you for your time and consideration to my thoughts on this matter.

**Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary and Labor**

February 25, 2014

S.B. No. 2621: RELATING TO ASSAULT OF SPORTS OFFICIALS

Chair Hee 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 S.B. No. 2621.

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 equally or more greatly at risk for physical assaults than sports officials?

We oppose the passage of S.B. No. 2621. Thank you for the opportunity to be heard on this matter.