



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

S.B. 1617, S.D. 1, RELATING TO CIVIL LIABILITY

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, March 20, 2008 **TIME:** 2:25 PM

LOCATION: State Capitol, Room
Deliver to: State Capitol, Room 302, 5 Copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Melina Sanchez, Deputy Attorney General

Chair Waters and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this bill is to protect property owners against civil claims that may be brought against them by persons injured or killed on premises while committing a class A or B felony or certain violent crimes. This bill would prohibit a person who engages in such criminal conduct from recovering damages for personal injury sustained while committing the crimes. This bill would deter criminals who commit such crimes from filing frivolous civil claims against property owners who were justified in acting to protect themselves, others, or their property.

While we support this bill, we recommend the following amendments:

(1) The term "owner" should be defined broadly to encompass all individuals who have authority to be on the property (i.e., tenants, other household members). By broadly defining "owner", this bill would protect those individuals who have the owner's consent to be on the property from civil claims brought against them for injuries they may have caused while protecting the property.

(2) Under subsection (e), the limitation on liability is conferred only upon the charge of a felony AND the subsequent

conviction of the felony or a lesser included felony or misdemeanor. In other words, subsection (e) requires two things before an owner is immune from civil liability: (1) a felony charge, and (2) that the injured person is in fact convicted of a criminal offense. This subsection does not take into account a situation where a person who has engaged in a felony crime, but was later acquitted on a technicality, thereafter files a civil lawsuit against a property owner who was justified in protecting his or her property. As such, we recommend that subsection (e) be deleted in its entirety.

We respectfully request passage of this measure with amendments.

C00117

TESTIMONY ON SENATE BILL 1617: RELATING TO LIMITING CIVIL LIABILITY, IN STRONG SUPPORT.

March 19, 2008

Joshua Hoblitt

[REDACTED]
Honolulu, HI 96826
[REDACTED]
[REDACTED]

COMMITTEE ON JUDICIARY

Rep. Tommy Waters, Chair
Rep. Blake K. Oshiro, Vice Chair

DATE: Thursday, March 20, 2008
TIME: 2:25 PM
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

Sgt-At-Arms please provide 35 Copies

Aloha Honorable Chair, Vice-Chair, and Members,

I wish to voice my strong support for SB1617. This bill provides important "Victims Rights" to those who have been subject to a heinous crime on their own property. It is fair and just for a property owner, who would likely be suffering from post traumatic stress disorder (PTSD) in order for the provisions of this bill to have be invoked, to only have to defend their actions once in a court of law.

Sincerely,



Joshua Hoblitt

000118

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE CONSUMER
LAWYERS OF HAWAII (CLH) IN OPPOSITION TO S.B. NO. 1617, S.D. 1**

March 20, 2008

To: Chairman Tommy Waters and Members of the Senate Committee on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Consumer Lawyers of Hawaii (CLH) in strong opposition to S.B. No. 1617, S.D. 1.

This measure gives immunity to landowners and permission to “shoot to kill” any person engaged in any class A or class B felony. While the use of deadly force to stop or intervene in the commission of a murder may be worthy of discussion, it must be considered that many (perhaps most) class B felonies are “white collar” or non-violent crimes not involving a threat of imminent loss of life.

Sanctioning the use of deadly force by ordinary citizens who lack law enforcement training to assess the need to use deadly force, employ alternative means to control the situation, consider the safety of bystanders and safely handle weapons is a public policy matter for the legislature. Serious consideration should be given to the public safety implications of allowing untrained persons to open fire in a crowded shopping center in response to the use of an altered credit card which is a class B felony pursuant to HRS § 708-8100.5.

CLH suggests that the collateral unintended consequences of permitting untrained persons to “shoot to kill” anyone engaged in any class A or B felony outweigh the positive benefits of the bill. Self-defense is a recognized response by a person subject to the use of deadly force against himself/herself or their family. If the use of deadly force is to be sanctioned, it should be restricted to only the most extreme situations of murder or attempted murder. The use of deadly force in other situations not involving imminent loss of life should be left to trained law enforcement personnel.

000119

Thank you very much for this opportunity to testify in opposition to S.B. No. 2170.

HAWAII RIFLE ASSOCIATION
Established, 1857
State Association for the National Rifle Association
P.O. Box 543, Kailua, Hawaii 96734

March 19, 2008

Testimony, **IN STRONG SUPPORT** on **SB1617, SD1**
Before The House Committee On Judiciary
Rep. Tommy Waters, Chair,
Rep. Blake Oshiro, Vice Chair

Honorable Chair, Vice Chair, and Members,

HRA supports this bill to provide civil liability to home occupants against suit from injured burglars. We support the amendments to the original bill offered by the Attorney General' office in testimony last year, and incorporated into the SD1.

We support additional language qualifying the degree of force vs the degree of threat, similar to language from statutes in other states. Appended are examples of civil actions in other locations we hope this bill would protect against, and citations from other states that have passed similar statutes or were considering it.

Thank you for the opportunity to testify on behalf of HRA.

Dr. Maxwell Cooper
Legislative Co-Chair, HRA




000120

We found primarily only newspaper citations for actual suits brought by burglars.

We understand the only way a traceable verdict would be discoverable is if it is raised on appeal *and* the issue of the plaintiff's criminal trespass is one of the issues in the appeal. There is no way to find cases that are settled or where the verdict is paid without appeal or where the appeal does not raise these issues.

There are probably no case documents for these (chances are they were withdrawn or dismissed), but here are newspaper accounts from *Overlawyered.com*:

foiled robber sues store employees

"A man who was beaten by employees of a store he was trying to rob is now suing." Dana Buckman "pleaded guilty to first-degree robbery and was sentenced to 18 years in prison as a repeat violent felon" after police say he pulled a semi-automatic pistol and demanded cash from workers at an AutoZone in Rochester last July. Instead, "employees Eli Crespo and Jerry Vega beat him with a pipe and held Buckman at bay with his own gun. ...Now Buckman is suing the auto parts store and the two employees who beat him, claiming they committed assault and battery and intentionally inflicted emotional distress." ("Man who tried to rob store sues for 'emotional distress'", AP/WAVY, [Jun. 12](#); Michael Zeigler, "Foiled robber claims he's the victim", Rochester Democrat & Chronicle, [Jun. 10](#)).

Posted by Walter Olson on June 13, 2006 12:36 AM | [Permalink](#)

"Court bars rapist from suing victim"

Connecticut:

A Superior Court judge in New London Friday permanently barred a convicted rapist who had harassed his victim with a series of legal actions from filing further lawsuits without the permission of a judge. Judge Clarence J. Jones issued a permanent injunction against Allen Adgers, who is serving a 13-year sentence for kidnapping and raping his former wife at knife-point, said Attorney General Richard Blumenthal, whose office sought the order....

[The wife] moved six times, but Adgers was able to learn her new address each time by filing a legal action that resulted in her being served with a subpoena. As part of the subpoena process, Adgers would get a receipt recording the address where service was made. He sent her harassing letters, which has added four years to his original 13-year sentence. But he still was allowed to force his former wife into court. Acting as his own attorney, the rapist was able to question and taunt his victim....

Blumenthal said that Adgers, in addition to harassing his victim, also filed 16 frivolous lawsuits against government officials since 2001. That will end with the order issued Friday.

C00121

(Mark Pazniokas, "Judge Halts Rape Victim's Ordeal", Hartford Courant, [Feb. 25](#)). Jonathan B. Wilson, who spotted the case, says one lesson -- given that it took a situation this extreme to trigger an injunction -- is that the system is likely to allow a great deal of litigation abuse in less facially outrageous cases: "So long as plaintiffs have the capacity of filing suit and engaging in discovery without satisfying any minimal standard of justification, unscrupulous plaintiffs will be able to use the compulsive power of the courts to impose frustration and costs on defendants." ([Feb. 26](#)).

Posted by Walter Olson at 11:18 AM | [Permalink](#) | [Comments \(1\)](#) March 07, 2006

Examples in the workplace, not a subject of this bill:

May 6 (2003)-- "Robber sues clerk who shot him during holdup". Muncie, Ind.: "A convicted robber is suing the convenience store clerk who shot him as he fled after a holdup. Willie Brown, 44, claimed the clerk acted 'maliciously and sadistically' in firing five shots as Brown ran out of Zipps Deli with money from the store's cash register." Brown, who was struck by bullets in the back and side, pleaded guilty to robbery and was sentenced to four years in prison. His earlier convictions included one for robbery and two for burglary. (AP/Indianapolis *Star*, [Apr. 18](#)).

In Bentonville, Ark., inmate Kenneth J. Lewis II is suing Nina Baugh for \$140,000 in damages; according to affidavits, Lewis was shot by Baugh after he attempted to burglarize her family's pawn shop and another business. Lewis was sentenced in January to 12 years' imprisonment after he pleaded guilty to commercial burglary and aggravated assault (Tracy M. Neal, "Convicted burglar sues woman who shot him during crime", Benton County *Daily Record*, [Apr. 19](#)). ([DURABLE LINK](#))

000122

CASTLE DOCTRINE LEGISLATION UPDATE

Review date: JUNE 25, 2007. NRA/ILA Office of Legislative Counsel

The following is a list of recently passed NRA supported legislation. Some states specify the locations where “duty to retreat” is not required. “Stand your ground” states are noted.

1. ALABAMA – SB 283 signed into law April 4, 2006.
 - “duty to retreat” is not required in a dwelling, residence, nuclear facility or vehicle
 - provides immunity from criminal and civil liability
2. FLORIDA – SB 436 signed April 26, 2005.
 - This is now a “**stand your ground**” state.
 - Provides immunity from criminal and civil liability.
3. GEORGIA – SB 396 signed April 27, 2006.
 - This is now a “**stand your ground**” state.
 - Provides immunity from criminal and civil liability.
4. INDIANA – HE 1028 signed March 24, 2006.
 - This is a “**stand your ground**” state that requires reasonable standard to justify the use of force.
 - Provides immunity from criminal and civil liability.
5. KANSAS – SB 366 signed May 19, 2006.
 - This is now a “**stand your ground**” state.
 - Provides immunity from criminal and civil liability.
6. MISSISSIPPI – SB – 2426 signed March 28, 2006.
 - “duty to retreat” is not required in a dwelling, vehicle, place of business, place of employment or in the immediate premises thereof
 - Provides immunity from criminal and civil liability.
7. SOUTH DAKOTA – HB 1134 signed February 17, 2006.
 - This is now a “**stand your ground**” state.
8. ALASKA – SB 200 enacted June 20, 2006.
 - With the enactment of SB 200, now if a criminal breaks into your home, your occupied vehicle, your place of business, or in a place where the person is a guest, a potential victim does not have a “duty to retreat” from those enumerated areas.
 - The new law also provides protection from criminal prosecution and civil litigation for those who defend themselves from criminal attack.

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- This is only new law to require that a victim prove there was no opportunity to leave the area before responding with force when outside of the home.

9. IDAHO – SB 1441 signed into law on April 24, 2006.

- SB 1441 provides immunity from civil actions for anyone who has used lawful force in self-defense. Under SB 1441, if a criminal attacks a victim and the victim successfully defends herself and, in the process, injures or kills the criminal, then neither the criminal nor the criminal’s family can obtain a judgment against the victim for damages.
- This is now a “**stand your ground**” state.

10. ARIZONA – SB 1145 signed into law on April 24, 2006.

- SB 1145 returned the self-defense justification law to its status prior to 1997 in Arizona. After a change to statute requested by the prosecutors in 1997 until SB 1145 was enacted this year, citizens forced to act in self-defense were presumed guilty of committing a violent crime until they proved their own innocence by a preponderance of the evidence.
- Arizona is a “**stand your ground**” state, only if one adheres to a list of situations. This list of situations, in which the use of force does not require retreat, are as follows:

Preventing arson of an occupied structure
 Certain types of burglary
 Kidnapping
 Manslaughter
 Certain types of murder
 Sexual conduct with a minor
 Child molestation
 Armed robbery
 Aggravated assault.

11. OKLAHOMA – HB 2615 signed May 12, 2006.

- Now if a criminal breaks into your home, your occupied vehicle or your place of business, you may presume he is there to do bodily harm and you may use any force necessary against him.
- Removes the “duty to retreat” if you are attacked in any place you have a legal right to be, therefore this is a “**stand your ground**” state.
- Provides protection from criminal prosecution and civil litigation for those who defend themselves from criminal attack.

12. SOUTH CAROLINA – HB 1134 signed into law February 17, 2006.

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- The new law revises S.C. Code Ann. § 22-18-4 and declares there is no “duty to retreat” when a person is in any place her or she may lawfully be.
- This is a **“stand your ground”** state.

13. LOUISIANA – HB 1097 signed June 30, 2006 and also HB 89 signed June 2, 2006.

- HB 1097 was a piece of legislation granting civil immunity to crime victims who lawfully use force up to and including deadly force to protect themselves against a violent attack.
- HB 89 created presumptions in law for the use of force against intruders in your home, car or place of business and explicitly states in law that you have no “duty to retreat” from criminal attack if you are in a place where you have a legal right to be.
- This is a **“stand your ground”** state.

14. KENTUCKY – SB 38 signed into law April 2006.

- Removes the “duty to retreat.”
- Creates civil immunity and criminal immunity and allows law enforcement to use standard investigative procedures in use of force situations.
- This is a **“stand your ground”** state.

15. MICHIGAN – six bills were signed into law on July 20, 2006 that all significantly changed the right to personal protection.

- SB 1046 removed the “duty to retreat.”
- SB 1185, allows for the award of court and attorney fees in civil cases where it was determined a person acted in accordance with the Self Defense Act and where civil immunities apply.
- HB 5548, gives civil immunities to persons acting in accordance with the Self Defense Act, preventing criminals and their families from suing law-abiding citizens.
- HB 5153, puts the burden of proof on the prosecutor to show that a person acted unlawfully in the application of force, rather than the person using the force having to prove they acted lawfully.
- HB 5142, expands the definition of "dwelling" to include a person’s garage, barn, backyard, etc.
- HB 5143, creates the Self Defense Act and specifies that it is not a crime to use force or deadly force to defend oneself if that person is not breaking any laws when defensive force was used. The person must be facing imminent threat of death or great bodily harm.

- This is a “**stand your ground**” state.

16. TEXAS – SB 378 signed into law on Tuesday March 27, 2007, and takes effect September 1, 2007.

- SB 378 removes the “duty to retreat.”
- Creates civil immunity.
- This is a “stand your ground” state.

17. TENNESSEE – HB 1907, signed on May 22, 2007.

- Affirms that there is no duty to retreat, although the phrase “stand your ground” is not used, this is a “**stand your ground**” law.
- Any person who is justified in the use of force shall be awarded reasonable attorney’s fees, court costs and compensation for loss of income.

18. NORTH DAKOTA - HB 1319, signed on April 24, 2007.

- A person in control of a dwelling, place of work, or in a vehicle may use deadly force to prevent serious bodily injury.
- When such force is justified, that person shall be immune from civil liability. A court shall award reasonable attorney’s fees, court costs, compensation for loss of income, and all expenses if the defendant is found immune from liability.

19. MISSOURI -- SB 62 signed July 3, 2007.

- A person is no longer required to retreat from a dwelling, residence or vehicle.
- Any person justified in the lawful use of force has the right to raise an absolute defense to criminal prosecution or civil liability.
- A court shall award attorney’s fees, court costs, and reasonable expenses to a defendant of a civil action if the court determines the defendant has established an absolute defense to the action.

20. MAINE – LD 1156 signed June 16, 2007

- Amends the Maine Criminal Code to provide protection for individual self-defense in the home.
- Provides for defense of premises as a defense in a civil action if the defender used the degree of force that is justified under the Maine Criminal Code.

000126



Lessons in Firearms Education
PO Box 25271
Honolulu, HI 96825
(808) 396-LIFE

March 18, 2008

Testimony on SB1617 SD1, **IN STRONG SUPPORT**

Before the **Committee on Judiciary**

Representative Tom Waters, Chair

Representative Blake Oshiro, Vice Chair

Thursday, March 20, 2008 2:25 PM

House Conference Room 325

SGT.-At-Arms please provide 5 Copies;

JUDTestimony@capitol.hawaii.gov

Honorable Chair, Vice Chair, and Members;

This bill protects law abiding property owners from reckless and vengeful legal actions resulting from incidents of self-defense while protecting themselves during the course of or commission of felonies on their own property.

If a perpetrator commits a serious felony or violent crime on my own property, I should have the right to protect myself and my family, without the subsequent fear of civil prosecution. Self-defense is a God-given right. I should not be held hostage twice, first by the perpetrator, and then by the fear that the injured criminal or deceased criminal's family would sue me because I used justifiable deadly force to protect my family.

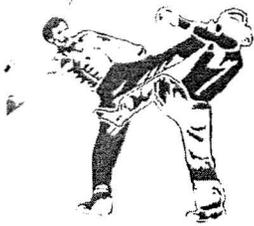
Thank you for the opportunity to testify **IN STRONG SUPPORT** of this bill.

Sincerely,

Mr. Mark Plischke

Lessons in Firearms Education (L.I.F.E.)


000127



Smith Taekwondo &
Pro Sport Kickboxing Center, Inc.
45-934 Kamehameha Highway #D-1, Kaneohe Hawaii 96744
(808) 247-3114
www.smithtaekwondo.com
www.amind-bodyconnection.com

Wednesday, March 19, 2008

House Judiciary committee

SB 1617, SD1

NOTICE OF HEARING

DATE: Thursday, March 20, 2008
TIME: 2:25 PM
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

1. My name is Bob Smith, I'm the president of Smith Tae kwon do Inc., an established business in Hawaii for the past 25 years. I'm a full-time weapons disarmament instructor for tactical solutions. I hold expert ratings in defensive handguns, tactical rifle, assault rifle, tactical shotgun and automatic weapons. And more importantly than that, I am a law-abiding, respected in my community for the work I've done in the low income areas of Hawaii, especially on the windward side of the island, and last and most importantly I'm a husband and father to a family that I dearly wish to be able to have the legal ability to protect them should the need arise in an increasingly violent environment in the State of Hawaii.
2. I'm testifying in support of SB1617, SD1, in hopes that the Legislature will understand that the average citizen in the state has absolutely no measures of protecting himself.
3. I'm an opposition of the "Castle doctrine." To think that one should simply "flee your home from danger in the middle of the night because an intruder has decided that they want to rob you or worse, well this is simply insane. No father of normal intelligence would ever leave his family in harm's way. And the real crime is for lawmakers to waste the time and money of honest law-abiding citizens in our own neighborhoods across the islands, which could actually be "anywhere, USA", the real crime is the fact that lawmakers would tell us that we have to flee from danger. Leaving our family there helpless? Even a single person has the right to safety in his own home.

Content:

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In Hawaii the average person while in the course of protecting their home family or property can be held liable against the criminal or perpetrator for injuries incurred while robbing, or threatening this person's life? It's absurd. And I would challenge any of you to states that you would "flee your home and leave your family behind, or simply flee your home at all, leaving a criminal element inside to do what they may."

I could write a book on the reasons why this bill should be passed.

1. Hawaii's dirty little secret is methamphetamine and the large number of families in Hawaii alone by the hundreds whose lives have been destroyed by death and violence.
2. the general mentality in Hawaii in which the next generation of young people is growing up and developing a thirst of "bloodlust" watching the no holds barred martial arts competitions which glorifies brutal nonstop violence. The instructors are not qualified, they encourage arrogance, disobedience and disrespect for the law and the public. Look at the heroes of today's mixed martial arts. Criminal records on BJ Penn, Egan Enouye, and Jason Miller. Mark Moreno. All for unrestrained and uncontrolled violence either in public or in the home. Please tell me, what is a woman or a man to do it against the trained martial artist self-discipline or restraint? Run out of their home screaming? It's unfortunate that many of the athletes today glorify violence, drug use and criminal activity. They celebrate physical violence to innocent bystanders.
3. there are groups such as mentioned in item 2 in Honolulu that actually trained people in the ways to disarm a police officer, (even though Honolulu Police Department officers use a triple release holster, for safety reasons).
 - Last year an Army couple was attacked in Waikele parking lot at Baskin Robbins, , not only by the son but by the father and son. The Army wife was viciously beaten until she was unconscious, and "choke slammed", lifted off of the ground while her head was driven into the pavement. Their infant sat helpless in the back seat of their vehicle watching the mother and father being beaten mercilessly while a crowd gathered including security guards yet no one intervened.
 - On any given day you can turn on the news or pick up the Honolulu advertiser and read about violence and horrific acts of brutal criminal violence across the islands. Yet the law-abiding citizen is helpless to defend themselves.
 - More than just the need to protect oneself and one's home is the need for the law-abiding citizen to be able to protect themselves wherever they go. This could be accomplished through CCW issuance to law-abiding citizens who are trained in the use of firearms for self-defense and to must requalify each and every year through a four-day training course given by the National Rifle Association or local instructors who are certified by such organization. Had the average law-abiding citizen had the right to defend themselves or others, Jonel Tupuola would not have been beaten

savagely to death by an out of his mind uncontrollable 350 pound Alapei Tunoa. This poor woman lost her life because NO ONE would get involved, except for a 69-year-old man who was also beaten. Hawaii State prosecutor Peter Carlisle recently stated in a roundabout way, unfortunately after the fact that “had someone had a firearm available they would not have been held liable had someone protected this woman.” What lawmakers don’t understand is that this is called a “failure to stop” by a “dedicated adversary” and the only way that anyone could have stopped this man in the homicidal rage that he was in, is called a cranial ocular shot. I can tell you from personal experience that 95% of the HPD officers are not qualified to make it a shot from even 5 meters.

- We are supposed to call 911? In this poor victim’s case even if she did, it would have served no purpose. This particular incident as do many which go unpublicized in the media; happened only one block from the Kailua police station. And the officer that “finally” arrived did so after Tunoa had fled the scene. What a surprise that was? The woman as well as people in the neighborhood watched as her very life slipped from her body as she was beaten, pummeled with the butt of a 12 gauge shotgun, while bystanders stood by and did NOTHING!
 - Someone who was trained in the use of firearms such as myself, had they been on site, this poor woman would still be breathing today. Someone who is trained could have executed the “cranial ocular” shot and saved this poor woman’s life. As that stands, her children would not be orphaned today.
 - In the past three years I have had on three separate occasions had people walk into my place of business (methamphetamine addicts and alcoholics from the bar across the street) who have threatened me or children in our programs. I can tell you that if I had been the average person walking down the street there would’ve been another story to tell about 80 victimized parent. However, because I am capable of defending myself the outcome was entirely different.
4. I completely support SB 1617. And more than that I encourage Legislature to consider the issuance of CCW to law abiding citizens.
 5. as history tells us “an armed society is a polite society”, and the lack of parental guidance in the next generation in Hawaii is obvious and apparent everywhere. It’s impossible to go to any mall, theater or restaurant without getting a look or gesture of challenge. Why? Parents take no responsibility in the actions of their teenagers. They encourage and glorify acts of violence. They celebrate and glorify the bloodlust of mixed martial arts training, (go to any event, icon sports or rumble on the rock at the Neal S. Blaisdell arena, because they are held monthly) and you will see even women fighting in the parking lot. You will see gangs from neighborhoods that range anywhere from Maile, to Waimanalo, looking for a reason to

instigate against helpless victims. Now, if the average woman sitting alone at a bus stop were given the right to protect herself with the use of possible lethal force, attitudes of these glorified gangsters would change immediately.

6. I would state that along with the passing of this bill there would be a consideration of issuing CCW licenses to qualified persons who have passed a certain training regimen, as long as those persons are willing to renew those qualifications on a yearly basis.

In closing: I would further state that these persons which hold the CCW permit be required to serve a minimum of one year with the Honolulu Police Department as a reserve officer, further requiring them to learn and be aware of the laws put in place, especially those that are absolutely worthless and do nothing but further restrict the honest person's ability to defend himself or his family in a situation of violence.

Bob Smith

Smith Taekwondo Inc. www.smithtaekwondo.com

Phone number 808-381-3892, 808-247-3114

Fax 808-235-0058

Contact address listed above: e-mail address: smithtaekwondo@aol.com

JUDtestimony

From: John Pepe [REDACTED]
Sent: Wednesday, March 19, 2008 7:53 PM
To: JUDtestimony
Subject: SB1617

Dear Sir;

I believe that this bill should be introduced and passed in order to provide protection for those homeowners who may be confronted by an intruder.

Having been exposed to such a situation in March 2007 I believe that I am within my rights to protect myself and family should an intruder enter my home, especially I am left with no option but to put up some type of resistance. As I stated someone enter my home while my wife and I were present. I know that the proper procedure according to the police is not to resist but what is one suppose to do if a member of his family is placed in danger? The majority of us would try to do something.

I find it hard to believe that I could be subject to a law suit because I intentionally injured someone who enters my house illegally. Today it seems as though the criminal has the rights and the victim has none. This is wrong and a law must be written to let those who intend to possibly do harm up others may not have the right to sue.

Thank you,

John A. Pepe

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March 20, 2008

Tommy Waters,
Chair Judiciary Committee

Chair Waters, members of the Judiciary Committee,

I am submitting testimony in support of SB 1617, SD1. Hawaii's law abiding residents need this Bill to protect them from frivolous civil actions brought forth by criminals, or their families, as a result of those criminal's actions.

Although I favor this type of immunity in general, and this Bill in particular, I also have some concerns about the language of SB1617, SD1. On page 2, line 20, the language describing the limitations on liability seems to indicate that said immunity will only be conferred "upon the charge of a felony listed in subsection (b) and the subsequent conviction of that felony or a lesser included felony or misdemeanor..." My concern lies with the situation in which the actor committing the crime is killed by the owner. If I understand the wording correctly, it would appear that if the actor is killed, no charges would be brought forth and hence the owner would not receive the intended immunity. I am sure that this is not the intent of the Bill and would ask that the committee amend the text so that the owner receives the same level of immunity regardless if the owner's actions result in injury or death.

Thank you.

Bill Richter


Kaneohe, Hawaii 96744

000133