
A BILL FOR AN ACT

RELATING TO ELECTRONIC MONITORING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 586-4, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) When a temporary restraining order is granted and the
4 respondent or person to be restrained knows of the order, a
5 knowing or intentional violation of the restraining order is a
6 misdemeanor. A person convicted under this [~~section~~] subsection
7 shall undergo domestic violence intervention at any available
8 domestic violence program as ordered by the court. The court
9 additionally shall sentence a person convicted under this
10 [~~section~~] subsection as follows:

11 (1) For a first conviction for violation of the temporary
12 restraining order, the person shall serve a mandatory
13 minimum jail sentence of forty-eight hours and be
14 fined not less than \$150 nor more than \$500; provided
15 that the court shall not sentence a defendant to pay a
16 fine unless the defendant is or will be able to pay
17 the fine; and



1 (2) For the second and any subsequent conviction for
2 violation of the temporary restraining order, the
3 person shall serve a mandatory minimum jail sentence
4 of thirty days and be fined not less than \$250 nor
5 more than \$1,000; provided that the court shall not
6 sentence a defendant to pay a fine unless the
7 defendant is or will be able to pay the fine.

8 Upon conviction and sentencing of the defendant, the court
9 shall order that the defendant immediately be incarcerated to
10 serve the mandatory minimum sentence imposed; provided that the
11 defendant may be admitted to bail pending appeal pursuant to
12 chapter 804. The court may stay the imposition of the sentence
13 if special circumstances exist.

14 The court may suspend any jail sentence, except for the
15 mandatory sentences under paragraphs (1) and (2), upon condition
16 that the defendant remain alcohol and drug-free, conviction-
17 free, or complete court-ordered assessments or intervention.
18 Nothing in this [~~section~~] subsection shall be construed as
19 limiting the discretion of the judge to impose additional
20 sanctions authorized in sentencing for a misdemeanor.

21 In addition to the penalties provided for in this
22 subsection, as a condition of probation, the court may order



1 that the defendant wear an electronic monitoring device designed
2 to alert the court to violation of orders restricting the
3 defendant's movements or other activities. If a court finds
4 that the defendant has violated orders regarding the defendant's
5 movements or other activities, it shall revoke the probation and
6 the defendant shall be fined, imprisoned, or both, as provided
7 in this subsection. Based upon the defendant's ability to pay,
8 the court may also order the defendant to pay the monthly costs
9 or portion thereof for electronic monitoring."

10 SECTION 2. Section 586-11, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Whenever an order for protection is granted pursuant
13 to this chapter, a respondent or person to be restrained who
14 knowingly or intentionally violates the order for protection is
15 guilty of a misdemeanor. A person convicted under this
16 [~~section~~] subsection shall undergo domestic violence
17 intervention at any available domestic violence program as
18 ordered by the court. The court additionally shall sentence a
19 person convicted under this [~~section~~] subsection as follows:

20 (1) For a first conviction for violation of the order for
21 protection:



1 (A) That is in the nature of non-domestic abuse, the
2 person may be sentenced to a jail sentence of
3 forty-eight hours and be fined not more than
4 \$150; provided that the court shall not sentence
5 a defendant to pay a fine unless the defendant is
6 or will be able to pay the fine;

7 (B) That is in the nature of domestic abuse, the
8 person shall be sentenced to a mandatory minimum
9 jail sentence of not less than forty-eight hours
10 and be fined not less than \$150 nor more than
11 \$500; provided that the court shall not sentence
12 a defendant to pay a fine unless the defendant is
13 or will be able to pay the fine;

14 (2) For a second conviction for violation of the order for
15 protection:

16 (A) That is in the nature of non-domestic abuse, and
17 occurs after a first conviction for violation of
18 the same order that was in the nature of non-
19 domestic abuse, the person shall be sentenced to
20 a mandatory minimum jail sentence of not less
21 than forty-eight hours and be fined not more than
22 \$250; provided that the court shall not sentence



1 a defendant to pay a fine unless the defendant is
2 or will be able to pay the fine;

3 (B) That is in the nature of domestic abuse, and
4 occurs after a first conviction for violation of
5 the same order that was in the nature of domestic
6 abuse, the person shall be sentenced to a
7 mandatory minimum jail sentence of not less than
8 thirty days and be fined not less than \$250 nor
9 more than \$1,000; provided that the court shall
10 not sentence a defendant to pay a fine unless the
11 defendant is or will be able to pay the fine;

12 (C) That is in the nature of non-domestic abuse, and
13 occurs after a first conviction for violation of
14 the same order that was in the nature of domestic
15 abuse, the person shall be sentenced to a
16 mandatory minimum jail sentence of not less than
17 forty-eight hours and be fined not more than
18 \$250; provided that the court shall not sentence
19 a defendant to pay a fine unless the defendant is
20 or will be able to pay the fine;

21 (D) That is in the nature of domestic abuse, and
22 occurs after a first conviction for violation of



1 the same order that is in the nature of non-
2 domestic abuse, the person shall be sentenced to
3 a mandatory minimum jail sentence of not less
4 than forty-eight hours and be fined not more than
5 \$150; provided that the court shall not sentence
6 a defendant to pay a fine unless the defendant is
7 or will be able to pay the fine;

- 8 (3) For any subsequent violation that occurs after a
9 second conviction for violation of the same order for
10 protection, the person shall be sentenced to a
11 mandatory minimum jail sentence of not less than
12 thirty days and be fined not less than \$250 nor more
13 than \$1,000; provided that the court shall not
14 sentence a defendant to pay a fine unless the
15 defendant is or will be able to pay the fine.

16 Upon conviction and sentencing of the defendant, the court
17 shall order that the defendant immediately be incarcerated to
18 serve the mandatory minimum sentence imposed; provided that the
19 defendant may be admitted to bail pending appeal pursuant to
20 chapter 804. The court may stay the imposition of the sentence
21 if special circumstances exist.



1 The court may suspend any jail sentence under subparagraphs
2 (1)(A) and (2)(C), upon condition that the defendant remain
3 alcohol and drug-free, conviction-free, or complete court-
4 ordered assessments or intervention. Nothing in this [~~section~~]
5 subsection shall be construed as limiting the discretion of the
6 judge to impose additional sanctions authorized in sentencing
7 for a misdemeanor offense. All remedies for the enforcement of
8 judgments shall apply to this chapter.

9 In addition to the penalties provided for in this
10 subsection, as a condition of probation, the court may order
11 that the defendant wear an electronic monitoring device designed
12 to alert the court to violation of orders restricting the
13 defendant's movements or other activities. If a court finds
14 that the defendant has violated orders regarding the defendant's
15 movements or other activities, it shall revoke the probation and
16 the defendant shall be fined, imprisoned, or both, as provided
17 in this subsection. Based on the defendant's ability to pay,
18 the court may also order the defendant to pay the monthly costs
19 or portion thereof for electronic monitoring."

20 SECTION 3. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun, before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY:

Cindy Evans

JAN 15 2008



Report Title:

Electronic Monitoring; Protective Order Violations

Description:

Requires electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order.

