
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 section,
22 as a condition of probation, the court may prohibit contact with



1 the victim through the establishment of court defined geographic
2 exclusion zones including, but not limited to, the areas in and
3 around the complainant's residence, place of employment, and the
4 complainant's child's school, and order that the defendant wear
5 a global positioning satellite tracking device designed to
6 transmit and record the defendant's location data. If the
7 defendant enters a court defined exclusion zone, the defendant's
8 location data shall be immediately transmitted to the
9 complainant, and to the police, through an appropriate means
10 including, but not limited to, the telephone, an electronic
11 beeper or a paging device. The global positioning satellite
12 device and its tracking shall be administered by the court. If
13 a court finds that the defendant has entered a geographic
14 exclusion zone, it shall revoke the probation and the defendant
15 shall be fined, imprisoned, or both, as provided in this
16 subsection. Based on the defendant's ability to pay, the court
17 may also order the defendant to pay the monthly costs or portion
18 thereof for monitoring through the global positioning satellite
19 tracking system."

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



1 "(a) Whenever an order for protection is granted pursuant
2 to this chapter, a respondent or person to be restrained who
3 knowingly or intentionally violates the order for protection is
4 guilty of a misdemeanor. A person convicted under this
5 [~~section~~] subsection shall undergo domestic violence
6 intervention at any available domestic violence program as
7 ordered by the court. The court additionally shall sentence a
8 person convicted under this [~~section~~] subsection as follows:

9 (1) For a first conviction for violation of the order for
10 protection:

11 (A) That is in the nature of non-domestic abuse, the
12 person may be sentenced to a jail sentence of
13 forty-eight hours and be fined not more than
14 \$150; provided that the court shall not sentence
15 a defendant to pay a fine unless the defendant is
16 or will be able to pay the fine;

17 (B) That is in the nature of domestic abuse, the
18 person shall be sentenced to a mandatory minimum
19 jail sentence of not less than forty-eight hours
20 and be fined not less than \$150 nor more than
21 \$500; 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 (2) For a second conviction for violation of the order for
4 protection:

5 (A) That is in the nature of non-domestic abuse, and
6 occurs after a first conviction for violation of
7 the same order that was in the nature of non-
8 domestic abuse, the person shall be sentenced to
9 a mandatory minimum jail sentence of not less
10 than forty-eight hours and be fined not more than
11 \$250; 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 (B) That is in the nature of domestic abuse, and
15 occurs after a first conviction for violation of
16 the same order that was in the nature of domestic
17 abuse, the person shall be sentenced to a
18 mandatory minimum jail sentence of not less than
19 thirty days and be fined not less than \$250 nor
20 more than \$1,000; provided that the court shall
21 not sentence a defendant to pay a fine unless the
22 defendant is or will be able to pay the fine;



1 (C) That is in the nature of non-domestic abuse, and
2 occurs after a first conviction for violation of
3 the same order that was in the nature of domestic
4 abuse, the person shall be sentenced to a
5 mandatory minimum jail sentence of not less than
6 forty-eight hours and be fined not more than
7 \$250; provided that the court shall not sentence
8 a defendant to pay a fine unless the defendant is
9 or will be able to pay the fine;

10 (D) That is in the nature of domestic abuse, and
11 occurs after a first conviction for violation of
12 the same order that is in the nature of non-
13 domestic abuse, the person shall be sentenced to
14 a mandatory minimum jail sentence of not less
15 than forty-eight hours and be fined not more than
16 \$150; provided that the court shall not sentence
17 a defendant to pay a fine unless the defendant is
18 or will be able to pay the fine;

19 (3) For any subsequent violation that occurs after a
20 second conviction for violation of the same order for
21 protection, the person shall be sentenced to a
22 mandatory minimum jail sentence of not less than



1 thirty days and be fined not less than \$250 nor more
2 than \$1,000; provided that the court shall not
3 sentence a defendant to pay a fine unless the
4 defendant is or will be able to pay the fine.

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

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

19 In addition to the penalties provided for in this
20 subsection, as a condition of probation, the court may prohibit
21 contact with the victim through the establishment of court
22 defined geographic exclusion zones including, but not limited



1 to, the areas in and around the complainant's residence, place
2 of employment, and the complainant's child's school, and order
3 that the defendant wear a global positioning satellite tracking
4 device designed to transmit and record the defendant's location
5 data. If the defendant enters a court defined exclusion zone,
6 the defendant's location data shall be immediately transmitted
7 to the complainant, and to the police, through an appropriate
8 means including, but not limited to, the telephone, an
9 electronic beeper or a paging device. The global positioning
10 satellite device and its tracking shall be administered by the
11 court. If a court finds that the defendant has entered a
12 geographic exclusion zone, it shall revoke the probation and the
13 defendant shall be fined, imprisoned, or both, as provided in
14 this subsection. Based on the defendant's ability to pay, the
15 court may also order the defendant to pay the monthly costs or
16 portion thereof for monitoring through the global positioning
17 satellite tracking system."

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

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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

2

INTRODUCED BY:

John M. ...
John ...
Tom Brunner
Tony ...
[Signature]

JAN 17 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.

