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# 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 known to the defendant including the areas in  
3 and around the complainant's residence, place of employment, and  
4 the complainant's child's school, and order that the defendant  
5 wear 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 the telephone, an electronic beeper, or a paging  
11 device. The global positioning satellite device and its  
12 tracking shall be administered by the court. If a court finds  
13 that the defendant has entered a geographic exclusion zone, it  
14 shall revoke the probation and the defendant shall be fined,  
15 imprisoned, or both, as provided in this subsection. Based on  
16 the defendant's ability to pay, the court may also order the  
17 defendant to pay the monthly costs or a portion thereof for  
18 monitoring through the global positioning satellite tracking  
19 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 known to the defendant



1 including the areas in and around the complainant's residence,  
2 place of employment, and the complainant's child's school, and  
3 order that the defendant wear a global positioning satellite  
4 tracking device designed to transmit and record the defendant's  
5 location data. If the defendant enters a court-defined  
6 exclusion zone, the defendant's location data shall be  
7 immediately transmitted to the complainant, and to the police,  
8 through an appropriate means including 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. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$                    or so much  
20 thereof as may be necessary for fiscal year 2008-2009 to pay for  
21 global positioning satellite tracking devices and other costs of





1 tracking a defendant's location in cases where a defendant is  
2 unable to pay for those costs.

3 The sum appropriated shall be expended by the judiciary for  
4 the purposes of this Act.

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun, before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Electronic Monitoring; Protective Order Violations

**Description:**

Allows the courts to require electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order. Appropriates funds for offenders who cannot afford to pay for costs associated with the monitoring device. (HB2766 HD1)

