
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 SECTION 1. Section 601-3.6, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The account shall consist of fees remitted pursuant
4 to sections 338-14.5 and 572-5, income tax remittances allocated
5 under section 235-102.5, fines collected pursuant to sections
6 [†]586-4(e)[†], 580-10, [~~and~~] 586-11, and 709-906, interest and
7 investment earnings, grants, donations, and contributions from
8 private or public sources. All realizations of the account
9 shall be subject to the conditions specified in subsection (b)."

10 SECTION 2. Section 709-906, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§709-906 Abuse of family or household members; penalty.**

13 (1) It shall be unlawful for any person, singly or in concert,
14 to physically abuse a family or household member or to refuse
15 compliance with the lawful order of a police officer under
16 subsection (4). The police, in investigating any complaint of
17 abuse of a family or household member, upon request, may
18 transport the abused person to a hospital or safe shelter.



1 For the purposes of this section, "family or household
2 member" means spouses or reciprocal beneficiaries, former
3 spouses or reciprocal beneficiaries, persons who have a child in
4 common, parents, children, persons related by consanguinity, and
5 persons jointly residing or formerly residing in the same
6 dwelling unit.

7 (2) Any police officer, with or without a warrant, may
8 arrest a person if the officer has reasonable grounds to believe
9 that the person is physically abusing, or has physically abused,
10 a family or household member and that the person arrested is
11 guilty thereof.

12 (3) A police officer who has reasonable grounds to believe
13 that the person is physically abusing, or has physically abused,
14 a family or household member shall prepare a written report.

15 (4) Any police officer, with or without a warrant, may
16 take the following course of action where the officer has
17 reasonable grounds to believe that there was physical abuse or
18 harm inflicted by one person upon a family or household member,
19 regardless of whether the physical abuse or harm occurred in the
20 officer's presence:

21 (a) The police officer may make reasonable inquiry of the
22 family or household member upon whom the officer



1 believes physical abuse or harm has been inflicted and
2 other witnesses as there may be;

3 (b) Where the police officer has reasonable grounds to
4 believe that there is probable danger of further
5 physical abuse or harm being inflicted by one person
6 upon a family or household member, the police officer
7 lawfully may order the person to leave the premises
8 for a period of separation of twenty-four hours,
9 during which time the person shall not initiate any
10 contact, either by telephone or in person, with the
11 family or household member; provided that the person
12 is allowed to enter the premises with police escort to
13 collect any necessary personal effects;

14 (c) Where the police officer makes the finding referred to
15 in paragraph (b) and the incident occurs after 12:00
16 p.m. on any Friday, or on any Saturday, Sunday, or
17 legal holiday, the order to leave the premises and to
18 initiate no further contact shall commence immediately
19 and be in full force, but the [~~twenty-four hour~~]
20 twenty-four-hour period shall be enlarged and extended
21 until 4:30 p.m. on the first day following the weekend
22 or legal holiday;



- 1 (d) All persons who are ordered to leave as stated above
2 shall be given a written warning citation stating the
3 date, time, and location of the warning and stating
4 the penalties for violating the warning. A copy of
5 the warning citation shall be retained by the police
6 officer and attached to a written report which shall
7 be submitted in all cases. A third copy of the
8 warning citation shall be given to the abused person;
- 9 (e) If the person so ordered refuses to comply with the
10 order to leave the premises or returns to the premises
11 before the expiration of the period of separation, or
12 if the person so ordered initiates any contact with
13 the abused person, the person shall be placed under
14 arrest for the purpose of preventing further physical
15 abuse or harm to the family or household member; and
- 16 (f) The police officer may seize all firearms and
17 ammunition that the police officer has reasonable
18 grounds to believe were used or threatened to be used
19 in the commission of an offense under this section.
- 20 (5) Abuse of a family or household member and refusal to
21 comply with the lawful order of a police officer under



1 subsection (4) are misdemeanors and the person shall be
2 sentenced as follows:

3 (a) For the first offense, the person shall serve a
4 minimum jail sentence of forty-eight hours[+] and
5 shall be fined not less than \$300 but not more than
6 \$1,000; and

7 (b) For a second offense that occurs within one year of
8 the first conviction, the person shall be termed a
9 "repeat offender" and serve a minimum jail sentence of
10 thirty days[-] and shall be fined not less than \$750
11 but not more than \$1,000.

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

18 (6) Whenever a court sentences a person pursuant to
19 subsection (5), it also shall require that the offender undergo
20 any available domestic violence intervention programs ordered by
21 the court. However, the court may suspend any portion of a jail
22 sentence, except for the mandatory sentences under subsection



1 (5)(a) and (b), upon the condition that the defendant remain
2 arrest-free and conviction-free or complete court-ordered
3 intervention.

4 (7) For a third or any subsequent offense that occurs
5 within two years of a second or subsequent conviction, the
6 offense shall be a class C felony[-] and the person shall pay a
7 fine of not less than \$1,500 and not more than \$5,000.

8 (8) Where the physical abuse consists of intentionally or
9 knowingly impeding the normal breathing or circulation of the
10 blood of the family or household member by applying pressure on
11 the throat or the neck, abuse of a family or household member is
12 a class C felony.

13 (9) Any police officer who arrests a person pursuant to
14 this section shall not be subject to any civil or criminal
15 liability; provided that the police officer acts in good faith,
16 upon reasonable belief, and does not exercise unreasonable force
17 in effecting the arrest.

18 (10) The family or household member who has been
19 physically abused or harmed by another person may petition the
20 family court, with the assistance of the prosecuting attorney of
21 the applicable county, for a penal summons or arrest warrant to



1 issue forthwith or may file a criminal complaint through the
2 prosecuting attorney of the applicable county.

3 (11) The respondent shall be taken into custody and
4 brought before the family court at the first possible
5 opportunity. The court may dismiss the petition or hold the
6 respondent in custody, subject to bail. Where the petition is
7 not dismissed, a hearing shall be set.

8 (12) This section shall not operate as a bar against
9 prosecution under any other section of this Code in lieu of
10 prosecution for abuse of a family or household member.

11 (13) It shall be the duty of the prosecuting attorney of
12 the applicable county to assist any victim under this section in
13 the preparation of the penal summons or arrest warrant.

14 (14) This section shall not preclude the physically abused
15 or harmed family or household member from pursuing any other
16 remedy under law or in equity.

17 (15) When a person is ordered by the court to undergo any
18 domestic violence intervention, that person shall provide
19 adequate proof of compliance with the court's order. The court
20 shall order a subsequent hearing at which the person is required
21 to make an appearance, on a date certain, to determine whether
22 the person has completed the ordered domestic violence



1 intervention. The court may waive the subsequent hearing and
2 appearance where a court officer has established that the person
3 has completed the intervention ordered by the court.

4 (16) Not more than thirty days after the end of each
5 fiscal quarter, the state director of finance shall remit the
6 finances paid under this section to the spouse and child abuse
7 special account established pursuant to section 601-3.6."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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



Report Title:

Domestic Abuse; Penalties; Victim Programs and Services

Description:

Establishes mandatory minimum and maximum fines for abuse of a family or household member. Requires fines to be deposited into the Judiciary's Spouse and Child Abuse Special Account. (HB3009 HD1)

