
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 in this subsection,
22 as a condition of probation, the court may prohibit contact with



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



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

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

11 (1) For a first conviction for violation of the order for
12 protection:

13 (A) That is in the nature of non-domestic abuse, the
14 person may be sentenced to a jail sentence of
15 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 (B) That is in the nature of domestic abuse, the
20 person shall be sentenced to a mandatory minimum
21 jail sentence of not less than forty-eight hours
22 and be fined not less than \$150 nor more than



1 \$500; provided that the court shall not sentence
2 a defendant to pay a fine unless the defendant is
3 or will be able to pay the fine;

4 (2) For a second conviction for violation of the order for
5 protection:

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

15 (B) That is in the nature of domestic abuse, and
16 occurs after a first conviction for violation of
17 the same order that was in the nature of domestic
18 abuse, the person shall be sentenced to a
19 mandatory minimum jail sentence of not less than
20 thirty days and be fined not less than \$250 nor
21 more than \$1,000; provided that the court shall

1 not sentence a defendant to pay a fine unless the
2 defendant is or will be able to pay the fine;

3 (C) That is in the nature of non-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 forty-eight hours and be fined not more than
9 \$250; provided that the court shall not sentence
10 a defendant to pay a fine unless the defendant is
11 or will be able to pay the fine;

12 (D) That is in the nature of domestic abuse, and
13 occurs after a first conviction for violation of
14 the same order that is in the nature of non-
15 domestic abuse, the person shall be sentenced to
16 a mandatory minimum jail sentence of not less
17 than forty-eight hours and be fined not more than
18 \$150; 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 (3) For any subsequent violation that occurs after a
22 second conviction for violation of the same order for



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

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

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

21 In addition to the penalties provided in this subsection,
22 as a condition of probation, the court may prohibit contact with



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



1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2008-2009 to pay for
4 global positioning satellite tracking devices and associated
5 costs of tracking a defendant's location.

6 The sum appropriated shall be expended by the judiciary for
7 the purposes of this Act.

8 SECTION 4. The judiciary shall establish and implement the
9 provisions relating to global satellite tracking devices under
10 sections 1 and 2 of this Act within one year from the effective
11 date of this Act.

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval;
18 except that section 3 shall take effect on July 1, 2008.



S.B. NO. 2218
S.D. 1
H.D. 1

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. (SB2218 HD1)

SB2218 HD1 HMS 2008-2976

