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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 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 police  
10 through an appropriate means, including the telephone, an  
11 electronic beeper, or a paging device. The global positioning  
12 satellite tracking device and its tracking shall be administered  
13 by the court. If a court finds that the defendant has entered a  
14 geographic exclusion zone, the court shall revoke the probation  
15 and the defendant shall be fined, imprisoned, or both, as  
16 provided in this subsection. Based on the defendant's ability  
17 to pay, the court may also order the defendant to pay the  
18 monthly costs or portion thereof for monitoring by the global  
19 positioning satellite tracking system. When the location of a  
20 protected party is unknown, the defendant shall not be required  
21 to wear a global positioning satellite tracking 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 police  
10 through an appropriate means, including the telephone, an  
11 electronic beeper, or a paging device. The global positioning  
12 satellite tracking device and its tracking shall be administered  
13 by the court. If a court finds that the defendant has entered a  
14 geographic exclusion zone, the court shall revoke the probation  
15 and the defendant shall be fined, imprisoned, or both, as  
16 provided in this subsection. Based on the defendant's ability  
17 to pay, the court may also order the defendant to pay the  
18 monthly costs or portion thereof for monitoring by the global  
19 positioning satellite tracking system. When the location of a  
20 protected party is unknown, the defendant shall not be required  
21 to wear a global positioning satellite tracking 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 of 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 on July 1, 2020.



S.B. NO. 2218  
S.D. 1  
H.D. 2

**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. Effective 07/01/2020. (SB2218 HD2)

SB2218 HD2 HMS 2008-3640

