

JAN 18 2008

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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 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.

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**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.

