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# A BILL FOR AN ACT

RELATING TO CRIMINAL CONTEMPT OF COURT.

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

1           SECTION 1. Research has shown that as economic  
2 difficulties increase, so too do incidents of domestic violence.  
3 To combat this increase, it is important to encourage domestic  
4 violence victims to come forward and testify against their  
5 assailants; however, many victims are either unwilling or unable  
6 to provide testimony. In these instances, current statutes  
7 provide that the court is able to hold a domestic violence  
8 victim in contempt of court should they refuse to testify.

9           Unfortunately, the factors involved in such cases are  
10 complex. Advocacy groups caution that in many instances, a  
11 victim has legitimate reasons to refuse to testify, including  
12 fear of reprisal or the loss of their social support system. In  
13 addition, imprisoning domestic violence victims for contempt of  
14 court is, in effect, punishing the victim for the crime.

15           Oftentimes, however, a victim's testimony is the lynchpin  
16 of a domestic abuse case, meaning that if the victim refuses to  
17 come forward, there is little possibility that the accused will  
18 be convicted, leaving them free to continue the cycle of abuse.



1           Given the myriad, intersecting factors of domestic violence  
2 cases, the purpose of this Act is to direct a study be  
3 undertaken to investigate these inherent complexities and  
4 recommend potential legislative solutions.

5           SECTION 2. (a) The department of the prosecuting attorney  
6 shall work in conjunction with the office of the public defender  
7 to undertake a study to examine the factors involved in domestic  
8 abuse cases where contempt of court becomes an issue, including  
9 where available:

- 10           (1) Statistics related to domestic violence victims  
11           providing testimony in court including the:
- 12           (A) Rate of domestic violence victims who choose to  
13           testify;
  - 14           (B) Number of domestic violence victims held in  
15           contempt of court for not testifying;
  - 16           (C) Rate of conviction both with and without victim  
17           testimony; and
  - 18           (D) Rate of retaliation threats carried out;
- 19           (2) The psychology and motivations of domestic violence  
20           victims related to testifying and being compelled to  
21           testify;



1           (3) The consequences following a domestic violence case  
2           for both the victim and the accused, regardless of  
3           whether there was a conviction; and

4           (4) The statutory tools currently in place regarding  
5           victim testimony.

6           (b) The department of the prosecuting attorney and the  
7 office of the public defender shall collaborate with all  
8 interested and willing stakeholders in conducting this study.

9           (c) Members of this study shall serve without  
10 compensation.

11           (d) The department of the prosecuting attorney and the  
12 office of the public defender shall submit a report of their  
13 findings and recommendations for appropriate legislation to the  
14 legislature no later than twenty days prior to the convening of  
15 the regular session of 2010.

16           SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Contempt of Court; Domestic Violence; Testimony

**Description:**

Directs the department of the prosecuting attorney and the office of the public defender to collaborate on a study investigating factors involved in domestic violence cases where victim testimony and contempt of court are an issue. (HB1524 HD1)

