
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. Section 710-1077, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§710-1077 Criminal contempt of court.** (1) A person
4 commits the offense of criminal contempt of court if:

- 5 (a) The person recklessly engages in disorderly or
6 contemptuous behavior, committed during the sitting of
7 a court in its immediate view and presence, and
8 directly tending to interrupt its proceedings or
9 impair the respect due to its authority;
- 10 (b) The person creates a breach of peace or a disturbance
11 with intent to interrupt a court's proceedings;
- 12 (c) As an attorney, clerk, or other officer of the court,
13 the person knowingly fails to perform or violates a
14 duty of the person's office, or knowingly disobeys a
15 lawful directive or order of a court;
- 16 (d) The person knowingly publishes a false report of a
17 court's proceedings;



- 1 (e) Knowing that the person is not authorized to practice
2 law, the person represents the person's self to be an
3 attorney and acts as such in a court proceeding;
- 4 (f) The person intentionally records or attempts to record
5 the deliberation of a jury;
- 6 (g) The person knowingly disobeys or resists the process,
7 injunction, or other mandate of a court;
- 8 (h) The person intentionally refuses to be qualified as a
9 witness in any court or, after being qualified, to
10 answer any proper interrogatory without a privilege to
11 refuse to answer;
- 12 (i) Being a juror, the person intentionally, without
13 permission of the court, fails to attend a trial or
14 official proceeding to which the person has been
15 summoned or at which the person has been chosen to
16 serve; or
- 17 (j) The person is in violation or disobedience of any
18 injunction or order expressly provided for in part V
19 of chapter 712.
- 20 (2) Except as provided in subsections (3) and (7),
21 criminal contempt of court is a misdemeanor.



1 (3) The court may treat the commission of an offense under
2 subsection (1) as a petty misdemeanor, in which case:

3 (a) If the offense was committed in the immediate view and
4 presence of the court, or under such circumstances
5 that the court has knowledge of all of the facts
6 constituting the offense, the court may order summary
7 conviction and disposition; and

8 (b) If the offense was not committed in the immediate view
9 and presence of the court, nor under such
10 circumstances that the court has knowledge of all of
11 the facts constituting the offense, the court shall
12 order the defendant to appear before it to answer a
13 charge of criminal contempt of court; the trial, if
14 any, upon the charge shall be by the court without a
15 jury; and proof of guilt beyond a reasonable doubt
16 shall be required for conviction.

17 (4) When the contempt under subsection (1) also
18 constitutes another offense, the contemnor may be charged with
19 and convicted of the other offense notwithstanding the fact that
20 the contemnor has been charged with or convicted of the
21 contempt.



1 (5) Whenever any person is convicted of criminal contempt
2 of court or sentenced therefor, the particular circumstances of
3 the offense shall be fully set forth in the judgment and in the
4 order or warrant of commitment. In any proceeding for review of
5 the judgment, sentence, or commitment, no presumption of law
6 shall be made in support of the jurisdiction to render the
7 judgment, pronounce the sentence, or order the commitment. A
8 judgment, sentence, or commitment under subsection (3)(a) shall
9 not be subject to review by appeal, but shall be subject to
10 review in an appropriate proceeding for an extraordinary writ or
11 in a special proceeding for review.

12 All other judgments, sentences, or commitments for criminal
13 contempt of court shall be subject to review by appeal, in a
14 proceeding for an appropriate extraordinary writ, or in a
15 special proceeding for review.

16 (6) Notwithstanding any law to the contrary, no court
17 shall imprison, confine, or place in custody the victim of a
18 sexual assault or domestic abuse crime for contempt when the
19 contempt consists of refusing to testify concerning that sexual
20 assault or domestic abuse crime.



1 As used in this section, "sexual assault" means any conduct
2 proscribed by chapter 707, part V, and "domestic abuse" means
3 conduct defined in section 586-1.

4 [~~6~~] (7) Nothing in this section shall be construed to
5 alter the court's power to punish civil contempt~~[-]~~, except as
6 provided in subsection (6). When the contempt consists of the
7 refusal to perform an act which the contemnor has the power to
8 perform, the contemnor may be imprisoned until the contemnor has
9 performed it. In such a case the act shall be specified in the
10 warrant of commitment. In any proceeding for review of the
11 judgment or commitment, no presumption of law shall be made in
12 support of the jurisdiction to render the judgment or order the
13 commitment. When a court of competent jurisdiction issues an
14 order compelling a parent to furnish support, including child
15 support, medical support, or other remedial care, for the
16 parent's child, it shall constitute prima facie evidence of a
17 civil contempt of court upon proof that:

18 (1) The order was made, filed, and served on the parent or
19 proof that the parent was present in court at the time
20 the order was pronounced; and

21 (2) The parent did not comply with the order.



1 An order of civil contempt of court based on prima facie
2 evidence under this subsection shall clearly state that the
3 failure to comply with the order of civil contempt of court may
4 subject the parent to a penalty that may include imprisonment
5 or, if imprisonment is immediately ordered, the conditions that
6 must be met for release from imprisonment. A party may also
7 prove civil contempt of court by means other than prima facie
8 evidence under this subsection.

9 ~~[(7)]~~ (8) Any violation or disobedience of any injunction
10 or order expressly provided for in part V of chapter 712 is
11 punishable by:

- 12 (a) A fine of not less than \$400 nor more than \$5,000, or
- 13 (b) By imprisonment for not less than one nor more than
14 six months, or
- 15 (c) Both (a) and (b)."

16 SECTION 2. This Act applies to any case of a refusal to
17 testify that occurs after its effective date, regardless of when
18 the underlying facts that give rise to the proceeding actually
19 occurred.

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Criminal Contempt of Court; Exception

Description:

Prohibits a court from imprisoning a victim of a sexual assault or domestic abuse crime for contempt for refusing to testify concerning that sexual assault or domestic abuse crime.

