
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 PART I UNEMPLOYMENT INSURANCE

2 SECTION 1. Chapter 383, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§383- Unemployment compensation personnel; domestic
6 violence training. Unemployment compensation personnel shall be
7 trained in:

8 (1) The nature and dynamics of domestic or sexual violence
9 and how to identify potential cases;

10 (2) Methods of determining whether domestic or sexual
11 violence has occurred; and

12 (3) Keeping information about possible or actual
13 experiences of domestic or sexual violence
14 confidential,

15 to ensure that requests for unemployment compensation based on
16 separations stemming from domestic or sexual violence are
17 reliably screened, identified, and adjudicated, and that the

1 individual's claim and submitted documentation remain
2 confidential."

3 SECTION 2. Section 383-1, Hawaii Revised Statutes, is
4 amended by adding five new definitions to be appropriately
5 inserted and to read as follows:

6 "Domestic abuse" means conduct defined in section 586-1.

7 "Domestic or sexual violence" means domestic abuse, sexual
8 assault, or stalking.

9 "Sexual assault" means any conduct proscribed by chapter
10 707, part V.

11 "Stalking" means engaging in a course of conduct
12 specifically directed at a targeted person that would cause a
13 reasonable person to suffer substantial emotional distress or to
14 fear bodily injury, sexual assault, or death to the person or to
15 the person's spouse, parent, child, or any other person who
16 regularly resides in the person's household, and where the
17 conduct causes the targeted person or a member of the targeted
18 person's household to have distress or fear.

19 "Victim services organization" includes:

20 (1) Nonprofit, nongovernmental organizations that provide
21 assistance to victims of domestic or sexual violence

1 or that advocate for such victims, including rape
2 crisis centers;

3 (2) Organizations operating a shelter or providing
4 professional counseling services; and

5 (3) Organizations providing assistance through the legal
6 process."

7 SECTION 3. Section 383-7.6, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~383-7.6~~§~~ **Separation for compelling family reason.**

10 (a) An individual shall not be disqualified from regular
11 unemployment benefits for separating from employment if that
12 separation is for a compelling family reason.

13 For purposes of this section, the term "compelling family
14 reason" means any of the following:

15 (1) Domestic or sexual violence that is verified by
16 reasonable and confidential documentation that causes
17 the individual to reasonably believe that the
18 individual's continued employment may jeopardize the
19 safety of the individual or any member of the
20 individual's immediate family (as defined by the
21 United States Secretary of Labor), including any of
22 the following circumstances:

- 1 (A) The individual has a reasonable fear of the
2 occurrence of future domestic or sexual violence
3 at, en route to, or en route from the
4 individual's place of employment, including being
5 a victim of stalking;
- 6 (B) The anxiety of the individual to relocate to
7 avoid future domestic or sexual violence against
8 the individual or the individual's minor child
9 prevents the individual from reporting to work;
- 10 (C) The need of the individual or the individual's
11 minor child to obtain treatment to recover from
12 the physical or psychological effects of domestic
13 or sexual violence prevents the individual from
14 reporting to work;
- 15 (D) The employer's refusal to grant the individual's
16 request for leave to address domestic or sexual
17 violence and its effects on the individual or the
18 individual's minor child, including leave
19 authorized by Section 102 of the Federal Family
20 and Medical Leave Act of 1993, Public Law 103-3,
21 as amended, or other federal, state, or county
22 law; or

1 (E) Any other circumstance in which domestic or
2 sexual violence causes the individual to
3 reasonably believe that separation from
4 employment is necessary for the future safety of
5 the individual, the individual's minor child, or
6 other individuals who may be present in the
7 employer's workplace;

8 (2) Illness or disability of a member of the individual's
9 immediate family (as defined by the United States
10 Secretary of Labor); or

11 (3) The need for the individual to accompany the
12 individual's spouse, because of a change in the
13 location of the spouse's employment, to a place from
14 which it is impractical for the individual to commute
15 to work.

16 (b) The department may request as reasonable and
17 confidential documentation under subsection (a)(1) the following
18 evidence:

19 (1) A notarized written statement of the individual
20 attesting to the status of the individual or the
21 individual's minor child as a victim of domestic or
22 sexual violence and explaining how continued

1 employment creates an unreasonable risk of further
2 violence;

3 (2) A signed written statement from:

4 (A) An employee, agent, or volunteer of a victim
5 services organization;

6 (B) The individual's attorney or advocate;

7 (C) A minor child's attorney or advocate; or

8 (D) A medical or other professional from whom the
9 individual or the individual's minor child has
10 sought assistance related to the domestic or
11 sexual violence,

12 attesting to the domestic or sexual violence and
13 explaining how the continued employment creates an
14 unreasonable risk of further violence; or

15 (3) A police or court record suggesting or demonstrating
16 that the continued employment may cause an
17 unreasonable risk of further violence.

18 (c) All information provided to the department pursuant to
19 this section, including any statement of the individual or any
20 other documentation, record, or corroborating evidence
21 discussing or relating to domestic or sexual violence, and the
22 fact that the individual has applied for, inquired about, or

1 obtained unemployment compensation by reason of this section
2 shall be retained in the strictest confidence by the
3 individual's former or current employer, and shall not be
4 disclosed except to the extent that disclosure is requested or
5 consented to by the employee, ordered by a court or
6 administrative agency, or otherwise required by applicable
7 federal or state law.

8 ~~[(d) As used in this section, the terms "domestic or~~
9 ~~sexual violence", "stalking", and "victim services organization"~~
10 ~~shall have the same meaning as in section 378-71.]~~

11 (d) The department shall ensure that all applicants for
12 unemployment compensation and individuals inquiring about such
13 compensation are adequately notified of the provisions of this
14 section.

15 (e) Nothing in this section shall be construed to
16 supersede any provision of any federal, state, or local law,
17 collective bargaining agreement, or employment benefits program
18 or plan that provides greater unemployment insurance benefits
19 for victims of domestic or sexual violence than those
20 established herein."

21 PART II EMPLOYMENT PRACTICES

1 SECTION 4. Chapter 378, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 **"§378- Discrimination on the basis of domestic or sexual**
5 **abuse; civil liability.** (a) Any employer that violates section
6 378-2(9) shall be liable to the affected individual for:

- 7 (1) Damages equal to the amount of wages, salary,
8 employment benefits, or other compensation denied or
9 lost to the individual by reason of the violation, and
10 the interest on that amount calculated at the
11 prevailing rate;
- 12 (2) Compensatory damages, including damages for future
13 pecuniary losses, and emotional pain, suffering,
14 inconvenience, mental anguish, loss of enjoyment or
15 life, and other nonpecuniary losses;
- 16 (3) Punitive damages, up to three times the amount of
17 actual damages sustained, as the court determines to
18 be appropriate; and
- 19 (4) Equitable relief as may be appropriate, including
20 employment, reinstatement, and promotion.

1 (b) An action may be brought under this section not later
2 than two years after the date of the last event constituting the
3 alleged violation for which the action is brought."

4 SECTION 5. Chapter 378, Hawaii Revised Statutes, is
5 amended by adding a new section to part VI to be appropriately
6 designated and to read as follows:

7 "§378- **Employer violations of victims leave; civil**
8 **liability.** (a) Any employer that violates any provision of
9 section 378-72 shall be liable to any affected individual:

10 (1) For damages equal to:

11 (A) The amount of:

12 (i) Wages, salary, employment benefits, or other
13 compensation denied or lost to such
14 individual by reason of the violation; or

15 (ii) In a case in which wages, salary, employment
16 benefits, or other compensation has not been
17 denied or lost to the individual, any actual
18 monetary losses sustained by the individual
19 as a direct result of the violation;

20 (B) The interest on the amount described in
21 subparagraph (A) calculated at the prevailing
22 rate; and

1 (C) An additional amount as liquidated damages equal
2 to the sum of the amount described in
3 subparagraph (A) and the interest described in
4 subparagraph (B), except that if an employer that
5 has violated section 378-72(m) proves to the
6 satisfaction of the court that the act or
7 omission that violated section 378-72(m) was in
8 good faith and that the employer had reasonable
9 grounds for believing that the act or omission
10 was not a violation of subsection 378-72(m), such
11 court may, in the discretion of the court, reduce
12 the amount of the liability to the amount and
13 interest determined under subparagraphs (A) and
14 (B); and

15 (2) For equitable relief as may be appropriate, including
16 employment, reinstatement, and promotion.

17 (b) An action may be brought under this section not later
18 than two years after the date of the last event constituting the
19 alleged violation for which the action is brought. In the case
20 of an action brought for a wilful violation of section
21 378-72(m), such action may be brought within two years after the

1 date of the last event constituting the alleged violation for
2 which the action is brought."

3 SECTION 6. Section 378-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§378-2 Discriminatory practices made unlawful; offenses**
6 **defined.** It shall be an unlawful discriminatory practice:

7 (1) Because of race, sex, sexual orientation, age,
8 religion, color, ancestry, disability, marital status,
9 or arrest and court record:

10 (A) For any employer to refuse to hire or employ or
11 to bar or discharge from employment, or otherwise
12 to discriminate against any individual in
13 compensation or in the terms, conditions, or
14 privileges of employment;

15 (B) For any employment agency to fail or refuse to
16 refer for employment, or to classify or otherwise
17 to discriminate against, any individual;

18 (C) For any employer or employment agency to print,
19 circulate, or cause to be printed or circulated
20 any statement, advertisement, or publication or
21 to use any form of application for employment or
22 to make any inquiry in connection with

1 prospective employment, which expresses, directly
2 or indirectly, any limitation, specification, or
3 discrimination;

4 (D) For any labor organization to exclude or expel
5 from its membership any individual or to
6 discriminate in any way against any of its
7 members, employer, or employees; or

8 (E) For any employer or labor organization to refuse
9 to enter into an apprenticeship agreement as
10 defined in section 372-2; provided that no
11 apprentice shall be younger than sixteen years of
12 age;

13 (2) For any employer, labor organization, or employment
14 agency to discharge, expel, or otherwise discriminate
15 against any individual because the individual has
16 opposed any practice forbidden by this part or has
17 filed a complaint, testified, or assisted in any
18 proceeding respecting the discriminatory practices
19 prohibited under this part;

20 (3) For any person whether an employer, employee, or not,
21 to aid, abet, incite, compel, or coerce the doing of

- 1 any of the discriminatory practices forbidden by this
2 part, or to attempt to do so;
- 3 (4) For any employer to violate the provisions of section
4 121-43 relating to nonforfeiture for absence by
5 members of the national guard;
- 6 (5) For any employer to refuse to hire or employ or to bar
7 or discharge from employment, any individual because
8 of assignment of income for the purpose of satisfying
9 the individual's child support obligations as provided
10 for under section 571-52;
- 11 (6) For any employer, labor organization, or employment
12 agency to exclude or otherwise deny equal jobs or
13 benefits to a qualified individual because of the
14 known disability of an individual with whom the
15 qualified individual is known to have a relationship
16 or association;
- 17 (7) For any employer or labor organization to refuse to
18 hire or employ, or to bar or discharge from
19 employment, or withhold pay, demote, or penalize a
20 lactating employee because an employee breastfeeds or
21 expresses milk at the workplace. For purposes of this

1 paragraph, the term "breastfeeds" means the feeding of
2 a child directly from the breast; [~~or~~]

3 (8) For any employer to refuse to hire or employ or to bar
4 or discharge from employment, or otherwise to
5 discriminate against any individual in compensation or
6 in the terms, conditions, or privileges of employment
7 of any individual because of the individual's credit
8 history or credit report, unless the information in
9 the individual's credit history or credit report
10 directly relates to a bona fide occupational
11 qualification under section 378-3(2) [~~-~~]; or

12 (9) For an employer to fail to hire, refuse to hire,
13 discharge, or harass any individual, or otherwise
14 discriminate against any individual with respect to
15 the compensation, terms, conditions, or privileges of
16 employment of the individual, including retaliation in
17 any form or manner, because:

18 (A) The individual is, or the employer perceives the
19 individual to be, a victim of domestic or sexual
20 violence;

21 (B) The individual attended, participated in,
22 prepared for, or requested leave to attend,

1 participate in, or prepare for, a criminal or
2 civil court proceeding relating to an incident of
3 domestic or sexual violence of which the
4 individual, or the individual's minor child, was
5 a victim;

6 (C) The individual, in response to actual or
7 threatened domestic or sexual violence, requested
8 that the employer implement a reasonable safety
9 procedure or a job-related modification to
10 enhance the security of that individual or
11 safeguard the workplace involved; or

12 (D) The workplace is disrupted or threatened by the
13 action of a person who the individual states has
14 committed or threatened to commit domestic or
15 sexual violence against the individual or the
16 individual's minor child.

17 For the purposes of this section, "domestic or sexual
18 violence" and "stalking" have the same meaning as
19 defined in section 383-1."

20 SECTION 7. Section 378-72, Hawaii Revised Statutes, is
21 amended to read as follows:

1 "~~[§378-72]~~ **Leave of absence for domestic or sexual**
2 **violence.** (a) ~~[An employer employing fifty or more employees~~
3 ~~shall allow an employee to take up to thirty days of unpaid~~
4 ~~victim leave from work per calendar year, or an employer~~
5 ~~employing not more than forty nine employees shall allow an~~
6 ~~employee to take up to five days of unpaid leave from work per~~
7 ~~calendar year,]~~ An employer shall allow an employee to take
8 thirty days of leave, either intermittently or on a reduced
9 leave schedule, within a twelve-month period if the employee or
10 the employee's minor child is a victim of domestic or sexual
11 violence; provided the leave is to ~~[either]:~~

12 (1) Seek medical attention for the employee or employee's
13 minor child to recover from physical or psychological
14 injury or disability caused by domestic or sexual
15 violence;

16 (2) Obtain services from a victim services organization;

17 (3) Obtain psychological or other counseling;

18 (4) Temporarily or permanently relocate; or

19 (5) Take legal action, including preparing for or

20 participating in any civil or criminal legal

21 proceeding related to or resulting from the domestic

22 or sexual violence, or other actions to enhance the

1 physical, psychological, or economic health or safety
2 of the employee or the employee's minor child or to
3 enhance the safety of those who associate with or work
4 with the employee.

5 (b) An employee's absence from work that is due to or
6 resulting from domestic [~~abuse~~] or sexual violence against the
7 employee or the employee's minor child as provided in this
8 section shall be considered by an employer to be a justification
9 for leave for a reasonable period of time, not to exceed the
10 total number of days [~~allocable for each category of employer~~]
11 specified under subsection (a).

12 "Reasonable period of time" as used in this section means:

- 13 (1) Where due to physical or psychological injury to or
14 disability to the employee or employee's minor child,
15 the period of time determined to be necessary by the
16 attending health care provider, considering the
17 condition of the employee or employee's minor child,
18 and the job requirements; and
- 19 (2) Where due to an employee's need to take legal or other
20 actions, including preparing for or participating in
21 any civil or criminal legal proceeding, obtaining
22 services from a victim services organization, or

1 permanently or temporarily relocating, the period of
2 time necessary to complete the activity as determined
3 by the employee's or employee's minor child's attorney
4 or advocate, court, or personnel of the relevant
5 victim services organization.

6 (c) Where an employee is a victim of domestic or sexual
7 violence and seeks leave for medical attention to recover from
8 physical or psychological injury or disability caused by
9 domestic or sexual violence, the employer may request that the
10 employee provide:

11 (1) A certificate from a health care provider estimating
12 the number of leave days necessary and the estimated
13 commencement and termination dates of leave required
14 by the employee; and

15 (2) Prior to the employee's return, a medical certificate
16 from the employee's attending health care provider
17 attesting to the employee's condition and approving
18 the employee's return to work.

19 (d) Where an employee has taken not more than five
20 calendar days of leave for non-medical reasons, the employee
21 shall provide certification to the employer in the form of a
22 signed statement within a reasonable period after the employer's

1 request, that the employee or the employee's minor child is a
2 victim of domestic or sexual violence and the leave is for one
3 of the purposes enumerated in subsection (a). If the leave
4 exceeds five days per calendar year, then the certification
5 shall be provided by one of the following methods:

6 (1) A signed written statement from an employee, agent, or
7 volunteer of a victim services organization, from the
8 employee's attorney or advocate, from a minor child's
9 attorney or advocate, or a medical or other
10 professional from whom the employee or the employee's
11 minor child has sought assistance related to the
12 domestic or sexual violence; or

13 (2) A police or court record related to the domestic or
14 sexual violence.

15 (e) If certification is required, no leave shall be
16 protected until a certification, as provided in this section, is
17 provided to the employer.

18 (f) The employee shall provide the employer with
19 reasonable notice of the employee's intention to take the leave,
20 unless providing that notice is not practicable due to imminent
21 danger to the employee or the employee's minor child.

1 (g) Nothing in this section shall be construed to prohibit
2 an employer from requiring an employee on victim leave to report
3 not less than once a week to the employer on the status of the
4 employee and intention of the employee to return to work.

5 (h) Upon return from leave under this section, the
6 employee shall return to the employee's original job or to a
7 position of comparable status and pay, without loss of
8 accumulated service credits and privileges, except that nothing
9 in this subsection shall be construed to entitle any restored
10 employee to the accrual of:

11 (1) Any seniority or employment benefits during any period
12 of leave, unless the seniority or benefits would be
13 provided to a similarly situated employee who was on
14 leave due to a reason other than domestic or sexual
15 violence; or

16 (2) Any right, benefit, or position of employment to which
17 the employee would not have otherwise been entitled.

18 (i) During any period in which an employee takes leave
19 under this section, the employer shall maintain coverage for the
20 employee under any group health plan, as defined in Section
21 5000(b)(1) (with respect to certain group health plans) of the
22 Internal Revenue Code, for the duration of such leave, at the

1 level and under the conditions coverage would have been provided
2 if the employee had continued in employment continuously for the
3 duration of the leave.

4 (j) An employer may recover the premium that the employer
5 paid for maintaining coverage for the employee as specified
6 under subsection (i) during any period of leave taken pursuant
7 to this section if:

8 (1) The employee fails to return from leave under this
9 section after the period of leave to which the
10 employee is entitled has expired; and

11 (2) The employee fails to return to work for a reason
12 other than the continuation of, recurrence of, or
13 onset of an episode of domestic or sexual violence
14 that entitles the employee to leave pursuant to this
15 section.

16 An employer may require an employee who claims that the employee
17 is unable to return to work because of the continuation of,
18 recurrence of, or onset of an episode of domestic or sexual
19 violence to provide, within a reasonable period after making the
20 claim, certification to the employer that the employee is unable
21 to return to work because of such reason. This certification
22 requirement may be satisfied by providing to the employer a

1 sworn statement of the employee; documentation from an employee,
2 agent, or volunteer of a victim services organization, an
3 attorney, a member of the clergy, or a medical or other
4 professional, from whom the employee or the employee's family or
5 household member has sought assistance in addressing domestic or
6 sexual violence; or a police or court record.

7 (k) If an employee who takes leave under this section is a
8 salaried employee who is among the highest paid ten per cent of
9 employees employed by the employer within seventy-five miles of
10 the facility at which the employee is employed, the employer may
11 deny restoration under subsection (h) if:

12 (1) The denial is necessary to prevent substantial and
13 grievous economic injury to the operations of the
14 employer; and

15 (2) The employer notifies the employee of the intent of
16 the employer to deny restoration on such basis at the
17 time the employer determines that the injury would
18 occur.

19 ~~[(1)]~~ (1) All information provided to the employer under
20 this section, including statements of the employee, or any other
21 documentation, record, or corroborating evidence, and the fact
22 that the employee or employee's minor child has been a victim of

1 domestic or sexual violence or the employee has requested leave
2 pursuant to this section, shall be maintained in the strictest
3 confidence by the employer, and shall not be disclosed, except
4 to the extent that disclosure is:

- 5 (1) Requested or consented to by the employee;
6 (2) Ordered by a court or administrative agency; or
7 (3) Otherwise required by applicable federal or state law.

8 (m) It shall be unlawful for any employer to discharge or
9 harass any individual, or otherwise discriminate against any
10 individual with respect to the individual's compensation, terms,
11 conditions, or privileges of employment, including retaliation
12 in any form or manner, because the individual has:

- 13 (1) Exercised any right provided under this section;
14 (2) Opposed any practice made unlawful by this section;
15 (3) Filed any charge, or has instituted or caused to be
16 instituted any proceeding, under or related to this
17 section;
18 (4) Given, or is about to give, any information in
19 connection with any inquiry or proceeding relating to
20 any right provided under this section; or

1 (5) Testified, or is about to testify, in any inquiry or
2 proceeding relating to any right provided under this
3 section.

4 [~~(j) Any employee denied leave by an employer in wilful~~
5 ~~violation of this section may file a civil action against the~~
6 ~~employer to enforce this section and recover costs, including~~
7 ~~reasonable attorney's fees, incurred in the civil action.]"~~

8 SECTION 8. Section 378-73, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[§]§378-73[§]~~ **Relationship to other leaves.** [~~If an~~
11 ~~employee is entitled to take paid or unpaid leave pursuant to~~
12 ~~other federal, state, or county law, or pursuant to an~~
13 ~~employment agreement, a collective bargaining agreement, or an~~
14 ~~employment benefits program or plan, which may be used for the~~
15 ~~purposes listed under section 378-72(a), the employee shall~~
16 ~~exhaust such other paid and unpaid leave benefits before victim~~
17 ~~leave benefits under this chapter may be applied. The~~
18 ~~combination of such other paid or unpaid leave benefits that may~~
19 ~~be applied and victim leave benefits shall not exceed the~~
20 ~~maximum number of days specified under section 378-72(a).] An
21 employee who is entitled to take paid or unpaid leave, including
22 family, medical, sick, annual, personal, or similar leave,~~

1 pursuant to state or local law, a collective bargaining
2 agreement, or an employment benefits program or plan, may elect
3 to substitute any period of such leave for an equivalent period
4 of leave provided under section 378-72."

5 PART III EMERGENCY LEAVE BENEFITS

6 SECTION 9. Chapter 378, Hawaii Revised Statutes, is
7 amended by adding a new section to part VI to be appropriately
8 designated and to read as follows:

9 "§378- Emergency leave benefits. (a) An employee who
10 takes emergency leave pursuant to section 378-72 may be eligible
11 for nonrecurrent short-term emergency benefits for the period of
12 time the leave is taken.

13 (b) An individual seeking emergency benefits under this
14 section shall submit an application to the department of human
15 services. The department of human services shall consider the
16 applications on an expedited basis, and shall determine
17 eligibility and release payments no later than seven days after
18 the applicant submits an application.

19 (c) In calculating the eligibility of an individual for
20 benefits under this section, the department of human services
21 shall count only the cash available or accessible to the
22 individual.

1 (d) The department of human services shall fund this
2 program, including the benefits provided under this section,
3 from the spouse and child abuse special account, established
4 under section 346-7.5."

5 SECTION 10. Section 346-7.5, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The account shall consist of fees remitted pursuant
8 to sections 338-14.5 and 572-5, income tax remittances allocated
9 under section 235-102.5, finances collected pursuant to sections
10 580-10, 586-4(e), and 586-11, interest and investment earnings,
11 grants, donations, and contributions from private or public
12 sources. All realizations of the account shall be subject to
13 the conditions specified in subsection (b)."

14 SECTION 11. Section 580-10, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) Any fines collected pursuant to subsection (d) shall
17 be deposited into the spouse and child abuse special account
18 established under section [~~601-3-6.~~] 346-7.5."

19 SECTION 12. Section 586-4, Hawaii Revised Statutes, is
20 amended by amending subsection (f) to read as follows:

1 "(f) Any fines collected pursuant to subsection [†](e)[†]
2 shall be deposited into the spouse and child abuse special
3 account established under section [~~601-3.6.~~] 346-7.5."

4 SECTION 13. Section 586-11, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Any fines collected pursuant to subsection (a) shall
7 be deposited into the spouse and child abuse special account
8 established under section [~~601-3.6.~~] 346-7.5."

9 SECTION 14. Section 601-3.6, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The account shall consist of fees remitted pursuant
12 to sections 338-14.5 and 572-5, income tax remittances allocated
13 under section 235-102.5, [~~finances collected pursuant to sections~~
14 [~~586-4(e)], 580-10, and 586-11~~], interest and investment
15 earnings, grants, donations, and contributions from private or
16 public sources. All realizations of the account shall be
17 subject to the conditions specified in subsection (b)."

18 PART IV PUBLIC ASSISTANCE

19 SECTION 15. Chapter 28, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:

1 "§28- Domestic or sexual abuse victims who receive
2 public assistance; assistance for redress. (a) The attorney
3 general shall ensure that any public agency that violates
4 section 346-A by taking an action prohibited under that section
5 against any public assistance recipient with respect to the
6 amount, terms, or conditions of public assistance, shall provide
7 the recipient who received a less favorable amount, term, or
8 condition of public assistance as a result of the violation:

9 (1) The amount of any public assistance denied or lost to
10 the recipient by reason of the violation;

11 (2) The interest on the amount of any public assistance
12 denied or lost by reason of the violation; and

13 (3) Equitable relief as may be appropriate.

14 (b) The attorney general shall adopt rules pursuant to
15 chapter 91 necessary to effectuate the purposes of this
16 section."

17 SECTION 16. Chapter 346, Hawaii Revised Statutes, is
18 amended by adding two new sections to be appropriately
19 designated and to read as follows:

20 "§346-A Public assistance; discrimination on the basis of
21 domestic or sexual violence prohibited. It shall be unlawful
22 for a public assistance recipient's benefits to be denied,

1 reduced, terminated, or otherwise sanctioned, or for a public
2 assistance recipient to be discriminated against with respect to
3 the amount, terms, or conditions of the recipient's public
4 assistance, including retaliation in any form or manner because:

5 (1) The recipient is, or is perceived to be, a victim of
6 domestic or sexual violence;

7 (2) The recipient attended, participated in, prepared for,
8 or requested leave to attend, participate in, or
9 prepare for, a criminal or civil court proceeding
10 relating to an incident of domestic or sexual violence
11 of which the recipient, or the family or a member of
12 the recipient's household, was a victim;

13 (3) The recipient, in response to actual or threatened
14 domestic or sexual violence, requested that a
15 reasonable safety procedure or modification to enhance
16 the security of the recipient be implemented;

17 (4) The workplace of the recipient is disrupted or
18 threatened by the action of a person who the recipient
19 states has committed or threatened to commit domestic
20 or sexual violence against the recipient, or against
21 the recipient's family or a member of the recipient's
22 household; or

1 (5) The recipient exercised any right provided by, or
2 opposed any practice made unlawful under, section
3 378-72.

4 **§346-B Public assistance; domestic violence training;**
5 **notification.** (a) The department shall adopt rules in
6 accordance with chapter 91 to ensure that:

7 (1) Applicants for assistance through a family assistance
8 program administered under Section 402 (with respect
9 to eligible states; state plan) of the Social Security
10 Act and individuals inquiring about the assistance are
11 adequately notified of:

12 (A) The availability of unemployment compensation for
13 victims of domestic or sexual violence as
14 provided in section 383-7.6;

15 (B) Provisions allowing for a leave of absence from
16 employment for victims of domestic or sexual
17 violence as provided in part VI of chapter 378;

18 (C) The availability of nonrecurrent short-term
19 emergency benefits available to individuals for a
20 period of leave taken pursuant to part VI of
21 chapter 378 as provided in section 378- ; and

1 (D) Insurance protections for victims of domestic or
 2 sexual violence as provided in sections
 3 431:10-217.5, 432:1-101.6, 432:2-103.5, 432D-27,
 4 and 432E- ; and

5 (2) Case workers and other agency personnel responsible
 6 for administering the State public assistance program
 7 funded under Section 402 of the Social Security Act
 8 are adequately trained in:

9 (A) The nature and dynamics of domestic or sexual
 10 violence, and how to identify such cases;

11 (B) State standards and procedures relating to the
 12 prevention of and assistance for individuals who
 13 experience, domestic or sexual violence; and

14 (C) Methods of ascertaining and keeping confidential
 15 information about possible experiences of
 16 domestic or sexual violence."

PART V INSURANCE

18 SECTION 17. Chapter 431, Hawaii Revised Statutes, is
 19 amended by adding a new section to be appropriately designated
 20 and to read as follows:

21 "§431- Policies relating to domestic abuse cases;
 22 enforcement. (a) Any act or practice prohibited by section

1 431:10-217.5 shall be enforceable by the same means and with the
2 same jurisdiction, powers, and duties as provided under section
3 431:2-203.

4 (b) An applicant or insured who believes that they have
5 been adversely affected by an act or practice of an insurer in
6 violation of section 431:10-217.5 may maintain a private cause
7 of action against the insurer in a federal or State court of
8 original jurisdiction. Upon proof of that conduct by a
9 preponderance of the evidence, the court may award appropriate
10 relief, including temporary, preliminary, and permanent
11 injunctive relief and compensatory and punitive damages, as well
12 as the costs of suit and reasonable fees for the aggrieved
13 individual's attorneys and expert witnesses.

14 (c) With respect to compensatory damages in an action
15 described in subsection (b), the aggrieved individual may elect,
16 at any time prior to the rendering of final judgment, to recover
17 in lieu of actual damages, an award of statutory damages in the
18 amount of \$5,000 for each violation."

19 SECTION 18. Chapter 432E, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:

1 "§432E- Domestic abuse; prohibition on termination. (a)

2 No managed care plan may terminate health coverage for a subject
3 of domestic abuse because coverage was originally issued in the
4 name of the abuser and the abuser has divorced, separated from,
5 or lost custody of the subject of domestic abuse, or the
6 abuser's coverage has terminated voluntarily or involuntarily
7 and the subject of domestic abuse does not qualify for an
8 extension of coverage under Part 6 of Subtitle B of Subchapter I
9 of the Employee Retirement Income Security Act of 1974, 29
10 U.S.C. 1161 et seq. or Section 4980B (with respect to failure to
11 satisfy continuation coverage requirements of group health
12 plans) of the Internal Revenue Code.

13 (b) Nothing in subsection (a) shall be construed to
14 prohibit the managed care plan from requiring that the subject
15 of domestic abuse pay the full premium for the subject's
16 coverage under the health plan if the requirements are applied
17 to all insureds of the managed care plan.

18 (c) A managed care plan may terminate group coverage to
19 which this section applies after the continuation coverage
20 period required by this section has been in force for eighteen
21 months if it offers conversion to an equivalent individual plan.

1 (d) The continuation of health coverage required by this
2 section shall be satisfied by any extension of coverage under
3 Part 6 of Subtitle B of Subchapter I of the Employee Retirement
4 Income Security Act of 1974, 29 U.S.C. 1161 et seq. or Section
5 4980B of the Internal Revenue Code provided to a subject of
6 domestic abuse and is not intended to be in addition to any
7 extension of coverage otherwise provided for under Part 6 or
8 Section 4980B.

9 (e) As used in this section:

10 "Domestic abuse" means the occurrence of one or more of the
11 following acts by a current or former household or family
12 member, intimate partner, or caretaker:

13 (1) Attempting to cause or causing another person bodily
14 injury, physical harm, substantial emotional distress,
15 or psychological trauma;

16 (2) Attempting to engage or engaging in any conduct
17 proscribed by chapter 707, part V;

18 (3) Engaging in a course of conduct or repeatedly
19 committing acts toward another person, including
20 following the person without proper authority and
21 under circumstances that place the person in
22 reasonable fear of bodily injury or physical harm;

- 1 (4) Subjecting another person to unlawful imprisonment or
- 2 kidnapping; or
- 3 (5) Attempting to cause, or causing, damage to property to
- 4 intimidate or attempt to control the behavior of
- 5 another person.

6 "Subject of domestic abuse" means a person:

- 7 (1) Against whom an act of domestic abuse has been
- 8 directed;
- 9 (2) Who has prior or current injuries, illnesses, or
- 10 disorders that resulted from domestic abuse; or
- 11 (3) Who seeks, may have sought, or had reason to seek
- 12 medical or psychological treatment for domestic abuse,
- 13 protection, court-ordered protection, or shelter from
- 14 domestic abuse."

15 SECTION 19. Section 431:10-217.5, Hawaii Revised Statutes,
16 is amended to read as follows:

17 **"[+]§431:10-217.5[+] Policies relating to domestic abuse**
18 **cases.** (a) No insurer shall deny or refuse to accept an
19 application for insurance, refuse to insure, refuse to renew,
20 cancel, restrict, or otherwise terminate a policy of insurance,
21 or charge a different rate for the same coverage, on the basis

1 that the applicant or insured person is, has been, or may be a
2 ~~[victim of domestic abuse.]~~ subject of domestic abuse.

3 (b) Nothing in this section shall prevent an insurer from
4 taking any of the actions set forth in subsection (a) on the
5 basis of loss history or medical condition, or for any other
6 reason not otherwise prohibited by this section, any law,
7 regulation, or rule.

8 (c) Any form filed or filed after July 15, 1998, or
9 subject to a rule adopted under chapter 91 may exclude coverage
10 for losses caused by intentional or fraudulent acts of any
11 insured. ~~[Such an]~~ An exclusion, however, shall not apply to
12 deny, or limit payment of, either directly or indirectly, an
13 insured's otherwise-covered property loss if:

14 (1) The property loss is caused by an act of domestic
15 abuse ~~[by another insured under the policy];~~

16 (2) The insured claiming property loss files a police
17 report and cooperates with any law enforcement
18 investigation relating to the act of domestic abuse;
19 and

20 (3) The insured claiming property loss did not cooperate
21 in or contribute to the creation of the property loss.

1 ~~[Payment by the insurer to an insured may be limited to the~~
2 ~~person's insurable interest in the property less payments made~~
3 ~~to a mortgagee or other party with a legal secured interest in~~
4 ~~the property. An insurer making payment to an insured under~~
5 ~~this section has all rights of subrogation to recover against~~
6 ~~the perpetrator of the act that caused the loss.]~~ Subrogation
7 of claims resulting from domestic abuse is prohibited without
8 the informed consent of the subject of domestic abuse.

9 (d) Nothing in this section prohibits an insurer from
10 investigating a claim and complying with chapter 431.

11 ~~[(e) As used in this section, "domestic abuse" means:~~

12 ~~(1) Physical harm, bodily injury, assault, or the~~
13 ~~infliction of fear of imminent physical harm, bodily~~
14 ~~injury, or assault between family or household~~
15 ~~members;~~

16 ~~(2) Sexual assault of one family or household member by~~
17 ~~another;~~

18 ~~(3) Stalking of one family or household member by another~~
19 ~~family or household member; or~~

20 ~~(4) Intentionally, knowingly, or recklessly causing damage~~
21 ~~to property so as to intimidate or attempt to control the~~
22 ~~behavior of another household member.]~~

1 (e) To protect the safety and privacy of subjects of
2 domestic abuse, no person employed by or contracting with an
3 insurer may engage in the following without the consent of the
4 subject of domestic abuse:

5 (1) Use, disclose, or transfer information relating to
6 domestic abuse status, acts of domestic abuse,
7 domestic abuse-related medical conditions, or the
8 applicant's or insured's status as a family member,
9 employer, associate, or person in a relationship with
10 a subject of domestic abuse for any purpose unrelated
11 to the direct provision of health care services unless
12 the use, disclosure, or transfer is required by an
13 order of an entity with authority to regulate
14 insurance or an order of a court of competent
15 jurisdiction; or

16 (2) Disclose or transfer information relating to an
17 applicant's or insured's mailing address and telephone
18 number of a shelter for subjects of domestic abuse,
19 unless the disclosure or transfer:

20 (A) Is required to provide insurance coverage; and

21 (B) Does not have the potential to endanger the
22 safety of a subject of domestic abuse.

1 Nothing in this subsection shall be construed to limit or
2 preclude a subject of domestic abuse from obtaining the
3 subject's own insurance records from an insurer.

4 (f) A subject of domestic abuse, at the subject's absolute
5 discretion, may provide evidence of domestic abuse to an insurer
6 for the limited purpose of facilitating treatment of a domestic
7 abuse-related condition or demonstrating that a condition is
8 domestic abuse-related. Nothing in this subsection shall be
9 construed as authorizing an insurer to disregard this evidence.

10 (g) Insurers shall develop and adhere to written policies
11 specifying procedures to be followed by employees, contractors,
12 producers, agents, and brokers to protect the safety and privacy
13 of a subject of domestic abuse and otherwise implement this
14 section when taking an application, investigating a claim, or
15 taking any other action relating to a policy or claim involving
16 a subject of domestic abuse.

17 (h) An insurer that takes an action that adversely affects
18 a subject of domestic abuse shall advise the applicant or
19 insured who is the subject of domestic abuse of the specific
20 reasons for the action in writing. For purposes of this
21 section, reference to general underwriting practices or
22 guidelines shall not constitute a specific reason.

1 (i) Nothing in this section shall be construed to prohibit
2 a life insurer from declining to issue a life insurance policy
3 if the applicant or prospective owner of the policy is or would
4 be designated as a beneficiary of the policy, and if:

5 (1) The applicant or prospective owner of the policy lacks
6 an insurable interest in the insured; or

7 (2) The applicant or prospective owner of the policy is
8 known, on the basis of police or court records, to
9 have committed an act of domestic abuse against the
10 proposed insured.

11 (j) As used in this section:

12 "Domestic abuse" means the occurrence of one or more of
13 the following acts by a current or former household or family
14 member, intimate partner, or caretaker:

15 (1) Attempting to cause, or causing, another person bodily
16 injury, physical harm, substantial emotional distress,
17 or psychological trauma;

18 (2) Attempting to engage or engaging in any conduct
19 proscribed by chapter 707, part V;

20 (3) Engaging in a course of conduct or repeatedly
21 committing acts toward another person, including
22 following the person without proper authority and

- 1 under circumstances that place the person in
- 2 reasonable fear of bodily injury or physical harm;
- 3 (4) Subjecting another person to unlawful imprisonment or
- 4 kidnapping; or
- 5 (5) Attempting to cause, or causing, damage to property to
- 6 intimidate or attempt to control the behavior of
- 7 another person.

8 "Subject of domestic abuse" means:

- 9 (1) A person against whom an act of domestic abuse has
- 10 been directed;
- 11 (2) A person who has prior or current injuries, illnesses,
- 12 or disorders that resulted from domestic abuse; or
- 13 (3) A person who seeks, may have sought, or had reason to
- 14 seek medical or psychological treatment for domestic
- 15 abuse, protection, court-ordered protection, or
- 16 shelter from domestic abuse."

17 SECTION 20. Section 432:1-101.6, Hawaii Revised Statutes,
18 is amended to read as follows:

19 **"§432:1-101.6 Policies relating to domestic abuse cases.**

- 20 (a) No mutual benefit society shall deny or refuse to accept an
- 21 application for insurance, refuse to insure, refuse to renew,
- 22 cancel, restrict, or otherwise terminate a policy of insurance,

1 or charge a different rate for the same coverage, on the basis
2 that the member or prospective member is, has been, or may be a
3 ~~[victim of domestic abuse.]~~ subject of domestic abuse.

4 (b) Nothing in this section shall prevent a mutual benefit
5 society from taking any of the actions set forth in subsection
6 (a) on the basis of loss history or medical condition, or for
7 any other reason not otherwise prohibited by this section or any
8 other law, regulation, or rule.

9 (c) Any form filed or filed after July 15, 1998, or
10 subject to a rule adopted under chapter 91 may exclude coverage
11 for losses caused by intentional or fraudulent acts of any
12 member of the society.

13 (d) Nothing in this section prohibits a mutual benefit
14 society from investigating a claim and complying with chapter
15 432.

16 ~~[(e) As used in this section, "domestic abuse" means:~~

17 ~~(1) Physical harm, bodily injury, assault, or the~~
18 ~~infliction of fear of imminent physical harm, bodily~~
19 ~~injury, or assault between family or household~~
20 ~~members;~~

21 ~~(2) Sexual assault of one family or household member by~~
22 ~~another;~~

- 1 ~~(3) Stalking of one family or household member by another~~
2 ~~family or household member; or~~
- 3 ~~(4) Intentionally, knowingly, or recklessly causing damage~~
4 ~~to property so as to intimidate or attempt to control~~
5 ~~the behavior of another household member.]~~

6 (e) To protect the safety and privacy of subjects of
7 domestic abuse, no person employed by or contracting with a
8 mutual benefit society may engage in the following without the
9 consent of the subject of domestic abuse:

- 10 (1) Use, disclose, or transfer information relating to
11 domestic abuse status, acts of domestic abuse,
12 domestic abuse-related medical conditions, or the
13 prospective member's or member's status as a family
14 member, employer, associate, or person in a
15 relationship with a subject of domestic abuse for any
16 purpose unrelated to the direct provision of health
17 care services unless such use, disclosure, or transfer
18 is required by an order of an entity with authority to
19 regulate insurance or an order of a court of competent
20 jurisdiction; or
- 21 (2) Disclose or transfer information relating to a
22 prospective member's or member's mailing address and

1 telephone number of a shelter for subjects of domestic
2 abuse, unless the disclosure or transfer:

3 (A) Is required to provide insurance coverage; and

4 (B) Does not have the potential to endanger the
5 safety of a subject of domestic abuse.

6 Nothing in this subsection shall be construed to limit or
7 preclude a subject of domestic abuse from obtaining the
8 subject's own insurance records from a mutual benefit society.

9 (f) A subject of domestic abuse, at the subject's absolute
10 discretion, may provide evidence of domestic abuse to a mutual
11 benefit society for the limited purpose of facilitating
12 treatment of a domestic abuse-related condition or demonstrating
13 that a condition is domestic abuse-related. Nothing in this
14 subsection shall be construed as authorizing a mutual benefit
15 society to disregard this evidence.

16 (g) Mutual benefit societies shall develop and adhere to
17 written policies specifying procedures to be followed by
18 employees, contractors, producers, agents, and brokers to
19 protect the safety and privacy of a subject of domestic abuse
20 and otherwise implement this section when taking an application,
21 investigating a claim, or taking any other action relating to a
22 policy or claim involving a subject of domestic abuse.

1 (h) A mutual benefit society that takes an action that
2 adversely affects a subject of domestic abuse shall advise the
3 prospective member or member who is the subject of domestic
4 abuse of the specific reasons for the action in writing. For
5 purposes of this section, reference to general underwriting
6 practices or guidelines shall not constitute a specific reason.

7 (i) Nothing in this section shall be construed to prohibit
8 a life insurer from declining to issue a life insurance policy
9 if the applicant or prospective owner of the policy is or would
10 be designated as a beneficiary of the policy, and if the
11 applicant or prospective owner of the policy:

12 (1) Lacks an insurable interest in the insured; or
13 (2) Is known, on the basis of police or court records, to
14 have committed an act of domestic abuse against the
15 proposed insured.

16 (j) As used in this section:

17 "Domestic abuse" means the occurrence of one or more of
18 the following acts by a current or former household or family
19 member, intimate partner, or caretaker:

20 (1) Attempting to cause, or causing, another person bodily
21 injury, physical harm, substantial emotional distress,
22 or psychological trauma;

- 1 (2) Attempting to engage or engaging in any conduct
2 proscribed by chapter 707, part V;
- 3 (3) Engaging in a course of conduct or repeatedly
4 committing acts toward another person, including
5 following the person without proper authority and
6 under circumstances that place the person in
7 reasonable fear of bodily injury or physical harm;
- 8 (4) Subjecting another person to unlawful imprisonment or
9 kidnapping; or
- 10 (5) Attempting to cause or causing damage to property to
11 intimidate or attempt to control the behavior of
12 another person.

13 "Subject of domestic abuse" means:

- 14 (1) A person against whom an act of domestic abuse has
15 been directed;
- 16 (2) A person who has prior or current injuries, illnesses,
17 or disorders that resulted from domestic abuse; or
- 18 (3) A person who seeks, may have sought, or had reason to
19 seek medical or psychological treatment for domestic
20 abuse, protection, court-ordered protection, or
21 shelter from domestic abuse."

1 SECTION 21. Section 432:2-103.5, Hawaii Revised Statutes,
2 is amended to read as follows:

3 **"§432:2-103.5 Policies relating to domestic abuse cases.**

4 (a) No fraternal benefit society shall deny or refuse to accept
5 an application for insurance, refuse to insure, refuse to renew,
6 cancel, restrict, or otherwise terminate a policy of insurance,
7 or charge a different rate for the same coverage, on the basis
8 that the member or prospective member is, has been, or may be a
9 ~~[victim of domestic abuse.]~~ subject of domestic abuse.

10 (b) Nothing in this section shall prevent a fraternal
11 benefit society from taking any of the actions set forth in
12 subsection (a) on the basis of loss history or medical
13 condition, or for any other reason not otherwise prohibited by
14 this section or any other law, regulation, or rule.

15 (c) Any form filed or filed after July 15, 1998, or
16 subject to a rule adopted under chapter 91 may exclude coverage
17 for losses caused by intentional or fraudulent acts of any
18 benefit member.

19 (d) Nothing in this section prohibits a fraternal benefit
20 society from investigating a claim and complying with chapter
21 431.

22 ~~[(e) As used in this section, "domestic abuse" means:~~

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- 1 ~~(1) Physical harm, bodily injury, assault, or the~~
2 ~~infliction of fear of imminent physical harm, bodily~~
3 ~~injury, or assault between family or household~~
4 ~~members;~~
- 5 ~~(2) Sexual assault of one family or household member by~~
6 ~~another;~~
- 7 ~~(3) Stalking of one family or household member by another~~
8 ~~family or household member; or~~
- 9 ~~(4) Intentionally, knowingly, or recklessly causing damage~~
10 ~~to property so as to intimidate or attempt to control~~
11 ~~the behavior of another household member.]~~

12 (e) To protect the safety and privacy of subjects of
13 domestic abuse, no person employed by or contracting with a
14 fraternal benefit society may engage in the following without
15 the consent of the subject of domestic abuse:

- 16 (1) Use, disclose, or transfer information relating to
17 domestic abuse status, acts of domestic abuse,
18 domestic abuse-related medical conditions, or the
19 prospective member's or member's status as a family
20 member, employer, associate, or person in a
21 relationship with a subject of domestic abuse for any
22 purpose unrelated to the direct provision of health

1 care services unless such use, disclosure, or transfer
2 is required by an order of an entity with authority to
3 regulate insurance or an order of a court of competent
4 jurisdiction; or

5 (2) Disclose or transfer information relating to a
6 prospective member's or member's mailing address and
7 telephone number of a shelter for subjects of domestic
8 abuse, unless disclosure or transfer:

9 (A) Is required to provide insurance coverage; and

10 (B) Does not have the potential to endanger the
11 safety of a subject of domestic abuse.

12 Nothing in this subsection shall be construed to limit or
13 preclude a subject of domestic abuse from obtaining the
14 subject's own insurance records from a fraternal benefit
15 society.

16 (f) A subject of domestic abuse, at the subject's absolute
17 discretion, may provide evidence of domestic abuse to a
18 fraternal benefit society for the limited purpose of
19 facilitating treatment of a domestic abuse-related condition or
20 demonstrating that a condition is domestic abuse-related.

21 Nothing in this subsection shall be construed as authorizing a
22 fraternal benefit society to disregard evidence.

1 (g) Fraternal benefit societies shall develop and adhere
2 to written policies specifying procedures to be followed by
3 employees, contractors, producers, agents, and brokers to
4 protect the safety and privacy of a subject of domestic abuse
5 and otherwise implement this section when taking an application,
6 investigating a claim, or taking any other action relating to a
7 policy or claim involving a subject of domestic abuse.

8 (h) A fraternal benefit society that takes an action that
9 adversely affects a subject of domestic abuse shall advise the
10 prospective member or member who is the subject of domestic
11 abuse of the specific reasons for the action in writing. For
12 purposes of this section, reference to general underwriting
13 practices or guidelines shall not constitute a specific reason.

14 (i) Nothing in this section shall be construed to prohibit
15 a life insurer from declining to issue a life insurance policy
16 if the applicant or prospective owner of the policy is or would
17 be designated as a beneficiary of the policy, and if the
18 applicant or prospective owner of the policy:

19 (1) Lacks an insurable interest in the insured; or
20 (2) Is known, on the basis of police or court records, to
21 have committed an act of domestic abuse against the
22 proposed insured."

1 (j) As used in this section:

2 "Domestic abuse" means the occurrence of one or more of the
3 following acts by a current or former household or family
4 member, intimate partner, or caretaker:

5 (1) Attempting to cause or causing another person bodily
6 injury, physical harm, substantial emotional distress,
7 or psychological trauma;

8 (2) Attempting to engage or engaging in any conduct
9 proscribed by chapter 707, part V;

10 (3) Engaging in a course of conduct or repeatedly
11 committing acts toward another person, including
12 following the person without proper authority and
13 under circumstances that place the person in
14 reasonable fear of bodily injury or physical harm;

15 (4) Subjecting another person to unlawful imprisonment or
16 kidnapping; or

17 (5) Attempting to cause or causing damage to property so
18 as to intimidate or attempt to control the behavior of
19 another person.

20 "Subject of domestic abuse" means a person:

21 (1) Against whom an act of domestic abuse has been
22 directed;

- 1 (2) Who has prior or current injuries, illnesses, or
2 disorders that resulted from domestic abuse; or
3 (3) Who seeks, may have sought, or had reason to seek
4 medical or psychological treatment for domestic abuse,
5 protection, court-ordered protection, or shelter from
6 domestic abuse."

7 SECTION 22. Section 432D-27, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§432D-27 Policies relating to domestic abuse cases.** (a)
10 No health maintenance organization shall deny or refuse to
11 accept an application for insurance, refuse to insure, refuse to
12 renew, cancel, restrict, or otherwise terminate a policy of
13 insurance, or charge a different rate for the same coverage, on
14 the basis that the applicant or enrollee is, has been, or may be
15 a [~~victim of domestic abuse.~~] subject of domestic abuse.

16 (b) Nothing in this section shall prevent a health
17 maintenance organization from taking any of the actions set
18 forth in subsection (a) on the basis of loss history or medical
19 condition, or for any other reason not otherwise prohibited by
20 this section or any other law, regulation, or rule.

21 (c) Any form filed or filed after July 15, 1998, or
22 subject to a rule adopted under chapter 91 may exclude coverage

1 for losses caused by intentional or fraudulent acts of any
2 enrollee.

3 (d) Nothing in this section prohibits a health maintenance
4 organization from investigating a claim and complying with
5 chapter 432D.

6 ~~[(e) As used in this section, "domestic abuse" means:~~

- 7 ~~(1) Physical harm, bodily injury, assault, or the~~
8 ~~infliction of fear of imminent physical harm, bodily~~
9 ~~injury, or assault between family or household~~
10 ~~members;~~
- 11 ~~(2) Sexual assault of one family or household member by~~
12 ~~another;~~
- 13 ~~(3) Stalking of one family or household member by another~~
14 ~~family or household member; or~~
- 15 ~~(4) Intentionally, knowingly, or recklessly causing damage~~
16 ~~to property so as to intimidate or attempt to control~~
17 ~~the behavior of another household member.]~~

18 (e) To protect the safety and privacy of subjects of
19 domestic abuse, no person employed by or contracting with a
20 health maintenance organization may engage in the following
21 without the consent of the subject of domestic abuse:

1 (1) Use, disclose, or transfer information relating to
2 domestic abuse status, acts of domestic abuse,
3 domestic abuse-related medical conditions, or the
4 applicant's or enrollee's status as a family member,
5 employer, associate, or person in a relationship with
6 a subject of domestic abuse for any purpose unrelated
7 to the direct provision of health care services unless
8 such use, disclosure, or transfer is required by an
9 order of an entity with authority to regulate
10 insurance or an order of a court of competent
11 jurisdiction; or

12 (2) Disclose or transfer information relating to an
13 applicant's or insured's mailing address and telephone
14 number of a shelter for subjects of domestic abuse,
15 unless such disclosure or transfer:

16 (A) Is required to provide insurance coverage; and

17 (B) Does not have the potential to endanger the
18 safety of a subject of domestic abuse.

19 Nothing in this subsection shall be construed to limit or
20 preclude a subject of domestic abuse from obtaining the
21 subject's own insurance records from a health maintenance
22 organization.

1 (f) A subject of domestic abuse, at the subject's absolute
2 discretion, may provide evidence of domestic abuse to a health
3 maintenance organization for the limited purpose of facilitating
4 treatment of a domestic abuse-related condition or demonstrating
5 that a condition is domestic abuse-related. Nothing in this
6 subsection shall be construed as authorizing a health
7 maintenance organization to disregard evidence.

8 (g) Health maintenance organizations shall develop and
9 adhere to written policies specifying procedures to be followed
10 by employees, contractors, producers, agents, and brokers to
11 protect the safety and privacy of a subject of domestic abuse
12 and otherwise implement this section when taking an application,
13 investigating a claim, or taking any other action relating to a
14 policy or claim involving a subject of domestic abuse.

15 (h) A health maintenance organization that takes an action
16 that adversely affects a subject of domestic abuse shall advise
17 the applicant or enrollee who is the subject of domestic abuse
18 of the specific reasons for the action in writing. For purposes
19 of this section, reference to general underwriting practices or
20 guidelines shall not constitute a specific reason.

21 (i) As used in this section:

1 "Domestic abuse" means the occurrence of one or more of the
2 following acts by a current or former household or family
3 member, intimate partner, or caretaker:

4 (1) Attempting to cause, or causing, another person bodily
5 injury, physical harm, substantial emotional distress,
6 or psychological trauma;

7 (2) Attempting to engage or engaging in any conduct
8 proscribed by chapter 707, part V;

9 (3) Engaging in a course of conduct or repeatedly
10 committing acts toward another person, including
11 following the person without proper authority and
12 under circumstances that place the person in
13 reasonable fear of bodily injury or physical harm;

14 (4) Subjecting another person to unlawful imprisonment or
15 kidnapping; or

16 (5) Attempting to cause, or causing, damage to property to
17 intimidate or attempt to control the behavior of
18 another person.

19 "Subject of domestic abuse" means a person:

20 (1) Against whom an act of domestic abuse has been
21 directed;

- 1 (2) Who has prior or current injuries, illnesses, or
2 disorders that resulted from domestic abuse; or
3 (3) Who seeks, may have sought, or had reason to seek
4 medical or psychological treatment for domestic abuse,
5 protection, court-ordered protection, or shelter from
6 domestic abuse."

PART VI MISCELLANEOUS

8 SECTION 23. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 24. In codifying the new sections added by section
15 16 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 25. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 26. This Act shall take effect on July 1, 2050.

21

Report Title:

Domestic Violence Omnibus

Description:

Provides emergency, nonrecurring, benefits for victims of domestic or sexual violence and expands current provisions for unemployment insurance, emergency leaves of absence, and insurance protections. Effective 7/1/2050. (SD1)

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