
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 conduct defined in section 378-71.

12 "Victim services organization" includes:

13 (1) Nonprofit, nongovernmental organizations that provide
14 assistance to victims of domestic or sexual violence
15 or that advocate for such victims, including rape
16 crisis centers;

17 (2) Organizations operating a shelter or providing
18 professional counseling services; and

19 (3) Organizations providing assistance through the legal
20 process."

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



1 "~~§~~383-7.6~~§~~ **Separation for compelling family reason.**

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

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

7 (1) Domestic or sexual violence that is verified by
8 reasonable and confidential documentation that causes
9 the individual to reasonably believe that the
10 individual's continued employment may jeopardize the
11 safety of the individual or any member of the
12 individual's immediate family (as defined by the
13 United States Secretary of Labor), including any of
14 the following circumstances:

15 (A) The individual has a reasonable fear of the
16 occurrence of future domestic or sexual violence
17 at, en route to, or en route from the
18 individual's place of employment, including being
19 a victim of stalking;

20 (B) The anxiety of the individual to relocate to
21 avoid future domestic or sexual violence against



1 the individual or the individual's minor child
2 prevents the individual from reporting to work;

3 (C) The need of the individual or the individual's
4 minor child to obtain treatment to recover from
5 the physical or psychological effects of domestic
6 or sexual violence prevents the individual from
7 reporting to work;

8 (D) The employer's refusal to grant the individual's
9 request for leave to address domestic or sexual
10 violence and its effects on the individual or the
11 individual's minor child, including leave
12 authorized by Section 102 of the Federal Family
13 and Medical Leave Act of 1993, Public Law 103-3,
14 as amended, or other federal, state, or county
15 law; or

16 (E) Any other circumstance in which domestic or
17 sexual violence causes the individual to
18 reasonably believe that separation from
19 employment is necessary for the future safety of
20 the individual, the individual's minor child, or
21 other individuals who may be present in the
22 employer's workplace;



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

4 (3) The need for the individual to accompany the
5 individual's spouse, because of a change in the
6 location of the spouse's employment, to a place from
7 which it is impractical for the individual to commute
8 to work.

9 (b) The department may request as reasonable and
10 confidential documentation under subsection (a)(1) the following
11 evidence:

12 (1) A notarized written statement of the individual
13 attesting to the status of the individual or the
14 individual's minor child as a victim of domestic or
15 sexual violence and explaining how continued
16 employment creates an unreasonable risk of further
17 violence;

18 (2) A signed written statement from:

19 (A) An employee, agent, or volunteer of a victim
20 services organization;

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

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



1 (D) A medical or other professional from whom the
2 individual or the individual's minor child has
3 sought assistance related to the domestic or
4 sexual violence,

5 attesting to the domestic or sexual violence and
6 explaining how the continued employment creates an
7 unreasonable risk of further violence; or

8 (3) A police or court record suggesting or demonstrating
9 that the continued employment may cause an
10 unreasonable risk of further violence.

11 (c) All information provided to the department pursuant to
12 this section, including any statement of the individual or any
13 other documentation, record, or corroborating evidence
14 discussing or relating to domestic or sexual violence, and the
15 fact that the individual has applied for, inquired about, or
16 obtained unemployment compensation by reason of this section
17 shall be retained in the strictest confidence by the
18 individual's former or current employer, and shall not be
19 disclosed except to the extent that disclosure is requested or
20 consented to by the employee, ordered by a court or
21 administrative agency, or otherwise required by applicable
22 federal or state law.



1 lost to the individual by reason of the violation, and
2 the interest on that amount calculated at the
3 prevailing rate;

4 (2) Compensatory damages, including damages for future
5 pecuniary losses, and emotional pain, suffering,
6 inconvenience, mental anguish, loss of enjoyment or
7 life, and other nonpecuniary losses;

8 (3) Punitive damages, up to three times the amount of
9 actual damages sustained, as the court determines to
10 be appropriate; and

11 (4) Equitable relief as may be appropriate, including
12 employment, reinstatement, and promotion;

13 provided that, notwithstanding the foregoing, the State shall
14 not be liable for interest prior to judgment under paragraph
15 1(b) or for punitive damages under paragraph (3).

16 (b) An action may be brought under this section not later
17 than two years after the date of the last event constituting the
18 alleged violation for which the action is brought; provided that
19 any action brought against the State shall be subject to the
20 limitations on actions set forth in sections 661-5 and 662-4."



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

4 **"§378- Employer violations of victims leave; civil**
5 **liability.** (a) Any employer that violates any provision of
6 section 378-72 shall be liable to any affected individual:

7 (1) For damages equal to:

8 (A) The amount of:

9 (i) Wages, salary, employment benefits, or other
10 compensation denied or lost to such
11 individual by reason of the violation; or

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

17 (B) Interest on the amount described in subparagraph
18 (A) calculated at the prevailing rate; and

19 (C) An additional amount as punitive damages equal to
20 the sum of the amount described in subparagraph

21 (A) and the interest described in subparagraph

22 (B), except that if an employer that has violated



1 section 378-72(m) proves to the satisfaction of
2 the court that the act or omission that violated
3 section 378-72(m) was in good faith and that the
4 employer had reasonable grounds for believing
5 that the act or omission was not a violation of
6 section 378-72(m), the court may, in the
7 discretion of the court, reduce the amount of the
8 liability under this paragraph to only the amount
9 and interest determined under subparagraphs (A)
10 and (B); and

11 (2) For equitable relief as may be appropriate, including
12 employment, reinstatement, and promotion;
13 provided that, notwithstanding the foregoing, the State shall
14 not be liable for interest prior to judgment under paragraph
15 (1)(B) or for punitive damages under paragraph (1)(C).

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



1 action brought against the State shall be subject to the
2 limitations on actions set forth in sections 661-5 and 662-4."

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.** (a) It shall be an unlawful discriminatory practice:

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

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

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

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



1 to make any inquiry in connection with
2 prospective employment, which expresses, directly
3 or indirectly, any limitation, specification, or
4 discrimination;

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

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

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

21 (3) For any person whether an employer, employee, or not,
22 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).

12 (b) It shall be an unlawful discriminatory practice for
13 any employer to refuse to provide an individual with a
14 reasonable safety accommodation requested by a domestic or
15 sexual violence victim including but not limited to job
16 restructuring, change of work place facility or location,
17 transfer, reassignment or a modified schedule, leave, change of
18 telephone number or seating assignment, installation of a lock,
19 or implementation of a safety procedure, unless the employer can
20 demonstrate that provision of the accommodation would impose an
21 undue hardship on the employer in the operation of its business.



1 (c) Prior to providing a reasonable safety accommodation
2 requested by individual who is a domestic or sexual violence
3 victim, an employer may require the individual to provide
4 certification that the individual is a domestic or sexual
5 violence victim by providing:

6 (1) A copy of a police report indicating that the
7 individual was or is a domestic or sexual violence
8 victim;

9 (2) A copy of a protective order or other evidence from a
10 court or attorney that the individual appeared in or
11 is preparing for a civil or criminal proceeding
12 related to domestic or sexual violence or stalking; or

13 (3) Documentation from an attorney, law enforcement
14 officer, health care professional, licensed mental
15 health professional or counselor, member of the clergy
16 or victim services provider that the individual was or
17 is undergoing treatment or counseling, obtaining
18 services, or relocating as a result of domestic or
19 sexual violence or stalking.

20 (d) As used in this section, "domestic or sexual violence
21 victim" means an individual who is or is perceived to be the
22 victim of conduct defined in section 378-71, which includes



1 domestic abuse, sexual assault, or stalking, or the individual's
2 minor child is the victim of such conduct."

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

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

16 (1) Seek medical attention for the employee or employee's
17 minor child to recover from physical or psychological
18 injury or disability caused by domestic or sexual
19 violence;

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

21 (3) Obtain psychological or other counseling;

22 (4) Temporarily or permanently relocate; or



1 (5) Take legal action, including preparing for or
2 participating in any civil or criminal legal
3 proceeding related to or resulting from the domestic
4 or sexual violence, or other actions to enhance the
5 physical, psychological, or economic health or safety
6 of the employee or the employee's minor child or to
7 enhance the safety of those who associate with or work
8 with the employee.

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

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

17 (1) Where due to physical or psychological injury to or
18 disability to the employee or employee's minor child,
19 the period of time determined to be necessary by the
20 attending health care provider, considering the
21 condition of the employee or employee's minor child[7]
22 and the job requirements; and



1 (2) Where due to an employee's need to take legal or other
2 actions, including preparing for or participating in
3 any civil or criminal legal proceeding, obtaining
4 services from a victim services organization, or
5 permanently or temporarily relocating, the period of
6 time necessary to complete the activity as determined
7 by the employee's or employee's minor child's attorney
8 or advocate, court, or personnel of the relevant
9 victim services organization.

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

15 (1) A certificate from a health care provider estimating
16 the number of leave days necessary and the estimated
17 commencement and termination dates of leave required
18 by the employee; and

19 (2) Prior to the employee's return, a medical certificate
20 from the employee's attending health care provider
21 attesting to the employee's condition and approving
22 the employee's return to work.



1 (d) Where an employee has taken not more than five
2 calendar days of leave for non-medical reasons, the employee
3 shall provide certification to the employer in the form of a
4 signed statement within a reasonable period after the employer's
5 request[7] that the employee or the employee's minor child is a
6 victim of domestic or sexual violence and the leave is for one
7 of the purposes enumerated in subsection (a). If the leave
8 exceeds five days per calendar year, then the certification
9 shall be provided by one of the following methods:

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

17 (2) A police or court record related to the domestic or
18 sexual violence.

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



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

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

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

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

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



1 (i) During any period in which an employee takes leave
2 under this section, the employer shall maintain coverage for the
3 employee under any group health plan, as defined in Section
4 5000(b)(1) (with respect to certain group health plans) of the
5 Internal Revenue Code, for the duration of such leave, at the
6 level and under the conditions that coverage would have been
7 provided if the employee had continued in employment
8 continuously for the duration of the leave.

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

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

16 (2) The employee fails to return to work for a reason
17 other than the continuation of, recurrence of, or
18 onset of an episode of domestic or sexual violence
19 that entitles the employee to leave pursuant to this
20 section.

21 An employer may require an employee who claims that the employee
22 is unable to return to work because of the continuation of,



1 recurrence of, or onset of an episode of domestic or sexual
2 violence to provide, within a reasonable period after making the
3 claim, certification to the employer that the employee is unable
4 to return to work because of such reason. This certification
5 requirement may be satisfied by providing to the employer a
6 sworn statement of the employee; documentation from an employee,
7 agent, or volunteer of a victim services organization, an
8 attorney, a member of the clergy, or a medical or other
9 professional, from whom the employee or the employee's family or
10 household member has sought assistance in addressing domestic or
11 sexual violence; or a police or court record.

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

17 (1) The denial is necessary to prevent substantial and
18 grievous economic injury to the operations of the
19 employer; and

20 (2) The employer notifies the employee of the intent of
21 the employer to deny restoration on such basis at the



1 time the employer determines that the injury would
2 occur.

3 [~~(i)~~] (1) All information provided to the employer under
4 this section, including statements of the employee, or any other
5 documentation, record, or corroborating evidence, and the fact
6 that the employee or employee's minor child has been a victim of
7 domestic or sexual violence or the employee has requested leave
8 pursuant to this section, shall be maintained in the strictest
9 confidence by the employer, and shall not be disclosed, except
10 to the extent that disclosure is:

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

14 (m) It shall be unlawful for any employer to discharge or
15 harass any individual, or otherwise discriminate against any
16 individual with respect to the individual's compensation, terms,
17 conditions, or privileges of employment, including retaliation
18 in any form or manner, because the individual has:

- 19 (1) Exercised any right provided under this section;
20 (2) Opposed any practice made unlawful by this section;



1 (3) Filed any charge or has instituted or caused to be
2 instituted any proceeding under or related to this
3 section;

4 (4) Given, or is about to give, any information in
5 connection with any inquiry or proceeding relating to
6 any right provided under this section; or

7 (5) Testified, or is about to testify, in any inquiry or
8 proceeding relating to any right provided under this
9 section.

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

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

16 "**[+]§378-73[+]** **Relationship to other leaves.** [~~If an~~
17 ~~employee is entitled to take paid or unpaid leave pursuant to~~
18 ~~other federal, state, or county law, or pursuant to an~~
19 ~~employment agreement, a collective bargaining agreement, or an~~
20 ~~employment benefits program or plan, which may be used for the~~
21 ~~purposes listed under section 378-72(a), the employee shall~~
22 ~~exhaust such other paid and unpaid leave benefits before victim~~



1 ~~leave benefits under this chapter may be applied. The~~
2 ~~combination of such other paid or unpaid leave benefits that may~~
3 ~~be applied and victim leave benefits shall not exceed the~~
4 ~~maximum number of days specified under section 378-72(a).] An~~
5 employee who is entitled to take paid or unpaid leave, including
6 family, medical, sick, annual, personal, or similar leave,
7 pursuant to state or local law, a collective bargaining
8 agreement, or an employment benefits program or plan, may elect
9 to substitute any period of such leave for an equivalent period
10 of leave provided under section 378-72."

11 **PART III EMERGENCY LEAVE BENEFITS**

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

15 **"§378- Emergency leave benefits.** (a) An employee who
16 takes victims leave pursuant to section 378-72 may be eligible
17 for nonrecurrent short-term emergency benefits for the period of
18 time the leave is taken.

19 (b) An individual seeking emergency benefits under this
20 section shall submit an application to the department of human
21 services. The department of human services shall consider the
22 applications on an expedited basis, and shall determine



1 eligibility and release payments no later than seven days after
2 the applicant submits an application.

3 (c) In calculating the eligibility of an individual for
4 benefits under this section, the department of human services
5 shall count only the cash available or accessible to the
6 individual.

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

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

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

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



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

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

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

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

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

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

16 "(c) The account shall consist of fees remitted pursuant
17 to sections 338-14.5 and 572-5, income tax remittances allocated
18 under section 235-102.5, [~~finest collected pursuant to sections~~
19 ~~{586-4(e)}, 580-10, and 586-11,~~] interest and investment
20 earnings, grants, donations, and contributions from private or
21 public sources. All realizations of the account shall be
22 subject to the conditions specified in subsection (b)."



1 reasonable safety procedure or modification to enhance
2 the security of the recipient be implemented;

3 (4) The workplace of the recipient is disrupted or
4 threatened by the action of a person who the recipient
5 states has committed or threatened to commit domestic
6 or sexual violence against the recipient or against
7 the recipient's family or a member of the recipient's
8 household; or

9 (5) The recipient exercised any right provided by, or
10 opposed any practice made unlawful under, section
11 378-72.

12 **§346-B Public assistance; domestic violence training;**

13 **notification.** (a) The department shall adopt rules in
14 accordance with chapter 91 to ensure that:

15 (1) Applicants for assistance through a family assistance
16 program administered under Section 402 (with respect
17 to eligible states; state plan) of the Social Security
18 Act, codified at title 42 U.S.C. section 602, and
19 individuals inquiring about the assistance are
20 adequately notified of:



1 (A) The availability of unemployment compensation for
2 victims of domestic or sexual violence as
3 provided in section 383-7.6;

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

7 (C) The availability of nonrecurrent short-term
8 emergency benefits available to individuals for a
9 period of leave taken pursuant to part VI of
10 chapter 378 as provided in section 378- ; and

11 (D) Insurance protections for victims of domestic or
12 sexual violence as provided in sections
13 431:10-217.5, 432:1-101.6, 432:2-103.5, 432D-27,
14 and 432E- ; and

15 (2) Case workers and other agency personnel responsible
16 for administering the State public assistance program
17 funded under Section 402 of the Social Security Act
18 are adequately trained in:

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

21 (B) State standards and procedures relating to the
22 prevention of domestic and sexual violence and



1 assistance for individuals who experience,
2 domestic or sexual violence; and
3 (C) Methods of ascertaining and keeping confidential
4 information about possible experiences of
5 domestic or sexual violence."

6 **PART V INSURANCE**

7 SECTION 16. Chapter 431, Hawaii Revised Statutes, is
8 amended by adding two new sections to be appropriately
9 designated and to read as follows:

10 "§431- Policies relating to domestic abuse cases;
11 enforcement. (a) Any act or practice prohibited by section
12 431:10-217.5 shall be enforceable by the same means and with the
13 same jurisdiction, powers, and duties as provided under section
14 431:2-203.

15 (b) An applicant or insured who believes that they have
16 been adversely affected by an act or practice of an insurer in
17 violation of section 431:10-217.5 may maintain a private cause
18 of action against the insurer in a federal or state court of
19 original jurisdiction. Upon proof of that conduct by a
20 preponderance of the evidence, the court may award appropriate
21 relief, including temporary, preliminary, and permanent
22 injunctive relief and compensatory and punitive damages, as well



1 as the costs of suit and reasonable fees for the aggrieved
2 individual's attorneys and expert witnesses.

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

8 **§431- Policies relating to domestic abuse cases;**
9 **enforcement.** Any act or practice prohibited by section 431:10-
10 217.5 shall be enforceable by the same means and with the same
11 jurisdiction, powers, and duties as provided under section
12 431:13-201 with respect to an act or practice that is violation
13 of section 431:13-103."

14 SECTION 17. Chapter 432E, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§432E- Domestic abuse; prohibition on termination.** (a)
18 No managed care plan may terminate health coverage for a subject
19 of domestic abuse because coverage was originally issued in the
20 name of the abuser and the abuser has divorced, separated from,
21 or lost custody of the subject of domestic abuse, or the
22 abuser's coverage has terminated voluntarily or involuntarily



1 and the subject of domestic abuse does not qualify for an
2 extension of coverage under Part 6 of Subtitle B of Subchapter I
3 of the Employee Retirement Income Security Act of 1974, 29
4 U.S.C. Sections 1161 through 1169 or Section 4980B (with respect
5 to failure to satisfy continuation coverage requirements of
6 group health plans) of the Internal Revenue Code.

7 (b) Nothing in subsection (a) shall be construed to
8 prohibit the managed care plan from requiring that the subject
9 of domestic abuse pay the full premium for the subject's
10 coverage under the health plan if the requirements are applied
11 to all insureds of the managed care plan.

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

16 (d) The continuation of health coverage required by this
17 section shall be satisfied by any extension of coverage under
18 Part 6 of Subtitle B of Subchapter I of the Employee Retirement
19 Income Security Act of 1974, 29 U.S.C. Sections 1161 through
20 1169 or Section 4980B of the Internal Revenue Code provided to a
21 subject of domestic abuse and is not intended to be in addition



1 to any extension of coverage otherwise provided for under Part 6
2 or Section 4980B.

3 (e) As used in this section:

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

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

22 "Subject of domestic abuse" means a person:



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

9 SECTION 18. Section 431:10-217.5, Hawaii Revised Statutes,
10 is amended to read as follows:

11 **"[+]§431:10-217.5[+] Policies relating to domestic abuse**
12 **cases.** (a) No insurer shall deny or refuse to accept an
13 application for insurance, refuse to insure, refuse to renew,
14 cancel, restrict, or otherwise terminate a policy of insurance,
15 or charge a different rate for the same coverage, on the basis
16 that the applicant or insured person is, has been, or may be a
17 ~~[victim of domestic abuse.]~~ subject of domestic abuse.

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



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

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

9 (2) The insured claiming the property loss files a police
10 report and cooperates with any law enforcement
11 investigation relating to the act of domestic abuse;
12 and

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

15 [~~Payment by the insurer to an insured may be limited to the~~
16 ~~person's insurable interest in the property less payments made~~
17 ~~to a mortgagee or other party with a legal secured interest in~~
18 ~~the property. An insurer making payment to an insured under~~
19 ~~this section has all rights of subrogation to recover against~~
20 ~~the perpetrator of the act that caused the loss.] Subrogation
21 of claims resulting from domestic abuse is prohibited without
22 the informed consent of the subject of domestic abuse.~~



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

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

4 ~~(1) Physical harm, bodily injury, assault, or the~~
5 ~~infliction of fear of imminent physical harm, bodily~~
6 ~~injury, or assault between family or household~~
7 ~~members;~~

8 ~~(2) Sexual assault of one family or household member by~~
9 ~~another;~~

10 ~~(3) Stalking of one family or household member by another~~
11 ~~family or household member; or~~

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

15 (e) When the insurer or its representative, meaning a
16 person employed by or contracting with an insurer, has
17 information in its possession that clearly indicates that the
18 insured or applicant is a subject of abuse, the disclosure or
19 transfer of confidential abuse information, as defined in this
20 section, for any purpose or to any person is prohibited, except:



- 1 (1) To the subject of domestic abuse or an individual
- 2 specifically designated in writing by the subject of
- 3 domestic abuse;
- 4 (2) To a health care provider for the direct provision of
- 5 health care services;
- 6 (3) To a licensed physician identified and designed by the
- 7 subject of domestic abuse;
- 8 (4) When ordered by the commissioner or a court of
- 9 competent jurisdiction or otherwise required by law;
- 10 (5) When necessary for a valid business purpose to
- 11 transfer information that includes confidential abuse
- 12 information that cannot reasonably be segregated
- 13 without undue hardship, confidential abuse information
- 14 may be disclosed only if the recipient has executed a
- 15 written agreement to be bound by the prohibitions of
- 16 this section in all respects and to be subject to the
- 17 enforcement of this section by the courts of this
- 18 State for the benefit of the applicant or insured, and
- 19 only to the following persons:
- 20 (A) A reinsurer that seeks indemnity or indemnifies
- 21 all or any part of a policy covering a subject of
- 22 domestic abuse and that cannot underwrite or



1 satisfy its obligations under the reinsurance
2 agreement without that disclosure;

3 (B) A party to a proposed or consummated sale,
4 transfer, merger, or consolidation of all or part
5 of the business of the insurer or its
6 representative;

7 (C) Medical or claims personnel contracting with the
8 insurer, only where necessary to process an
9 application or perform the insurer's or its
10 representative's duties under the policy or to
11 protect the safety or privacy of a subject of
12 domestic abuse, which shall include parent or
13 affiliate companies of the insurer that have
14 services agreements with the insurer or its
15 representative; or

16 (D) With respect to address and telephone number, to
17 entities with whom the insurer or its
18 representative transacts business when the
19 business cannot be transacted without the address
20 and telephone number;

21 (6) To an attorney who needs the information to represent
22 the insurer or its representative effectively;



1 provided the insurer or its representative notifies
2 the attorney of its obligations under this section and
3 requests that the attorney exercise due diligence to
4 protect the confidential abuse information consistent
5 with the attorney's obligation to represent the
6 insurer or its representative;

7 (7) To the policy owner or assignee, in the course of
8 delivery of the policy, if the policy contains
9 information about the abuse status; or

10 (8) To any other entities deemed appropriate by the
11 commissioner.

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

18 (g) Insurers shall develop and adhere to written policies
19 specifying procedures to be followed by employees, contractors,
20 producers, agents, and brokers to protect the safety and privacy
21 of a subject of domestic abuse and otherwise implement this
22 section when taking an application, investigating a claim, or



1 taking any other action relating to a policy or claim involving
2 a subject of domestic abuse.

3 (h) An insurer that takes an action that adversely affects
4 a subject of domestic abuse shall advise the applicant or
5 insured who is the subject of domestic abuse of the specific
6 reasons for the action in writing. For purposes of this
7 section, reference to general underwriting practices or
8 guidelines shall not constitute a specific reason.

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

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

15 (2) The applicant or prospective owner of the policy is
16 known on the basis of police or court records to have
17 committed an act of domestic abuse against the
18 proposed insured.

19 (j) As used in this section:

20 "Confidential abuse information" means information about
21 acts of domestic abuse or the abuse status of a subject of
22 domestic abuse, the address and telephone number, including home



1 and work information, of a subject of domestic abuse, or the
2 status of an applicant or insured as a family member, employer,
3 associate of, or a person in a relation with a subject of
4 domestic abuse.

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

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



1 "Subject of domestic abuse" means:

2 (1) A person against whom an act of domestic abuse has
3 been directed;

4 (2) A person who has prior or current injuries, illnesses,
5 or disorders that resulted from domestic abuse; or

6 (3) A person who seeks, may have sought, or had reason to
7 seek medical or psychological treatment for domestic
8 abuse, or protection, court-ordered protection, or
9 shelter from domestic abuse."

10 SECTION 19. Section 432:1-101.6, Hawaii Revised Statutes,
11 is amended to read as follows:

12 **"§432:1-101.6 Policies relating to domestic abuse cases.**

13 (a) No mutual benefit society shall deny or refuse to accept an
14 application for insurance, refuse to insure, refuse to renew,
15 cancel, restrict, or otherwise terminate a policy of insurance,
16 or charge a different rate for the same coverage, on the basis
17 that the member or prospective member is, has been, or may be a
18 [~~victim of domestic abuse.~~] subject of domestic abuse.

19 (b) Nothing in this section shall prevent a mutual benefit
20 society from taking any of the actions set forth in subsection

21 (a) on the basis of loss history or medical condition, or for



1 any other reason not otherwise prohibited by this section or any
2 other law, regulation, or rule.

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

7 (d) Nothing in this section prohibits a mutual benefit
8 society from investigating a claim and complying with chapter
9 432.

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

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

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

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

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



1 (e) When a mutual benefit society or its representative,
2 meaning a person employed by or contracting with a mutual
3 benefit society, has information in its possession that clearly
4 indicates that the insured or applicant is a subject of abuse,
5 the disclosure or transfer of confidential abuse information, as
6 defined in this section, for any purpose or to any person is
7 prohibited, except:

8 (1) To the subject of domestic abuse or an individual
9 specifically designated in writing by the subject of
10 domestic abuse;

11 (2) To a health care provider for the direct provision of
12 health care services;

13 (3) To a licensed physician identified and designed by the
14 subject of domestic abuse;

15 (4) When ordered by the commissioner or a court of
16 competent jurisdiction or otherwise required by law;

17 (5) When necessary for a valid business purpose to
18 transfer information that includes confidential abuse
19 information that cannot reasonably be segregated
20 without undue hardship, confidential abuse information
21 may be disclosed only if the recipient has executed a
22 written agreement to be bound by the prohibitions of



1 this section in all respects and to be subject to the
2 enforcement of this section by the courts of this
3 State for the benefit of the applicant or insured, and
4 only to the following persons:

5 (A) A reinsurer that seeks indemnity or indemnifies
6 all or any part of a policy covering a subject of
7 domestic abuse and that cannot underwrite or
8 satisfy its obligations under the reinsurance
9 agreement without that disclosure;

10 (B) A party to a proposed or consummated sale,
11 transfer, merger, or consolidation of all or part
12 of the business of the mutual benefit society or
13 its representative;

14 (C) Medical or claims personnel contracting with the
15 mutual benefit society, only where necessary to
16 process an application or perform the mutual
17 benefit society's or its representative's duties
18 under the policy or to protect the safety or
19 privacy of a subject of domestic abuse, which
20 shall include parent or affiliate companies of
21 the mutual benefit society that have services



1 agreements with the mutual benefit society or its
2 representative; or

3 (D) With respect to address and telephone number, to
4 entities with whom the mutual benefit society or
5 its representative transacts business when the
6 business cannot be transacted without the address
7 and telephone number;

8 (6) To an attorney who needs the information to represent
9 the mutual benefit society or its representative
10 effectively; provided that the mutual benefit society
11 or its representative notifies the attorney of its
12 obligations under this section and requests that the
13 attorney exercise due diligence to protect the
14 confidential abuse information consistent with the
15 attorney's obligation to represent the mutual benefit
16 society or its representative;

17 (7) To the policy owner or assignee, in the course of
18 delivery of the policy, if the policy contains
19 information about the abuse status; or

20 (8) To any other entities deemed appropriate by the
21 commissioner.



1 (f) A subject of domestic abuse, at the subject's absolute
2 discretion, may provide evidence of domestic abuse to a mutual
3 benefit society 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 mutual benefit
7 society to disregard this evidence.

8 (g) Mutual benefit societies shall develop and adhere to
9 written policies specifying procedures to be followed by
10 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 mutual benefit society that takes an action that
16 adversely affects a subject of domestic abuse shall advise the
17 prospective member or member who is the subject of domestic
18 abuse of the specific reasons for the action in writing. For
19 purposes of this section, reference to general underwriting
20 practices or guidelines shall not constitute a specific reason.

21 (i) Nothing in this section shall be construed to prohibit
22 a mutual benefit society from declining to issue a life



1 insurance policy if the applicant or prospective owner of the
2 policy is or would be designated as a beneficiary of the policy,
3 and if the applicant or prospective owner of the policy:

4 (1) Lacks an insurable interest in the insured; or
5 (2) Is known on the basis of police or court records to
6 have committed an act of domestic abuse against the
7 proposed insured.

8 (j) As used in this section:

9 "Confidential abuse information" means information about
10 acts of domestic abuse or the abuse status of a subject of
11 domestic abuse, the address and telephone number, including home
12 and work information, of a subject of domestic abuse, or the
13 status of an applicant or insured as a family member, employer,
14 associate of, or a person in a relation with a subject of
15 domestic abuse.

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

19 (1) Attempting to cause or causing another person bodily
20 injury, physical harm, substantial emotional distress,
21 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, or protection, court-ordered protection, or
21 shelter from domestic abuse."



1 SECTION 20. 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 subject
16 to a rule adopted under chapter 91 may exclude coverage for
17 losses caused by intentional or fraudulent acts of any benefit
18 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:~~



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) When a fraternal benefit society or its
13 representative, meaning a person employed by or contracting with
14 a fraternal benefit society, has information in its possession
15 that clearly indicates that the insured or applicant is a
16 subject of abuse, the disclosure or transfer of confidential
17 abuse information, as defined in this section, for any purpose
18 or to any person is prohibited, except:

19 (1) To the subject of domestic abuse or an individual
20 specifically designated in writing by the subject of
21 domestic abuse;



- 1 (2) To a health care provider for the direct provision of
- 2 health care services;
- 3 (3) To a licensed physician identified and designed by the
- 4 subject of domestic abuse;
- 5 (4) When ordered by the commissioner or a court of
- 6 competent jurisdiction or otherwise required by law;
- 7 (5) When necessary for a valid business purpose to
- 8 transfer information that includes confidential abuse
- 9 information that cannot reasonably be segregated
- 10 without undue hardship, confidential abuse information
- 11 may be disclosed only if the recipient has executed a
- 12 written agreement to be bound by the prohibitions of
- 13 this section in all respects and to be subject to the
- 14 enforcement of this section by the courts of this
- 15 State for the benefit of the applicant or insured, and
- 16 only to the following persons:
- 17 (A) A reinsurer that seeks indemnity or indemnifies
- 18 all or any part of a policy covering a subject of
- 19 domestic abuse and that cannot underwrite or
- 20 satisfy its obligations under the reinsurance
- 21 agreement without that disclosure;



1 (B) A party to a proposed or consummated sale,
2 transfer, merger, or consolidation of all or part
3 of the business of the fraternal benefit society
4 or its representative;

5 (C) Medical or claims personnel contracting with the
6 fraternal benefit society, only where necessary
7 to process an application or perform the
8 fraternal benefit society's or its
9 representative's duties under the policy or to
10 protect the safety or privacy of a subject of
11 domestic abuse, which shall include parent or
12 affiliate companies of the fraternal benefit
13 society that have services agreements with the
14 fraternal benefit society or its representative;
15 or

16 (D) With respect to address and telephone number, to
17 entities with whom the fraternal benefit society
18 or its representative transacts business when the
19 business cannot be transacted without the address
20 and telephone number;

21 (6) To an attorney who needs the information to represent
22 the fraternal benefit society or its representative



1 effectively; provided that the fraternal benefit
2 society or its representative notifies the attorney of
3 its obligations under this section and requests that
4 the attorney exercise due diligence to protect the
5 confidential abuse information consistent with the
6 attorney's obligation to represent the fraternal
7 benefit society or its representative;

8 (7) To the policy owner or assignee, in the course of
9 delivery of the policy, if the policy contains
10 information about the abuse status; or

11 (8) To any other entities deemed appropriate by the
12 commissioner.

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

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

20 (g) Fraternal benefit societies shall develop and adhere
21 to written policies specifying procedures to be followed by
22 employees, contractors, producers, agents, and brokers to



1 protect the safety and privacy of a subject of domestic abuse
2 and otherwise implement this section when taking an application,
3 investigating a claim, or taking any other action relating to a
4 policy or claim involving a subject of domestic abuse.

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

11 (i) Nothing in this section shall be construed to prohibit
12 a fraternal benefit society from declining to issue a life
13 insurance policy if the applicant or prospective owner of the
14 policy is or would be designated as a beneficiary of the policy,
15 and if the applicant or prospective owner of the policy:

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

20 (j) As used in this section:

21 "Confidential abuse information" means information about
22 acts of domestic abuse or the abuse status of a subject of



1 domestic abuse, the address and telephone number, including home
2 and work information, of a subject of domestic abuse, or the
3 status of an applicant or insured as a family member, employer,
4 associate of, or a person in a relation with a subject of
5 domestic abuse.

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

- 9 (1) Attempting to cause or causing another person bodily
10 injury, physical harm, substantial emotional distress,
11 or psychological trauma;
- 12 (2) Attempting to engage or engaging in any conduct
13 proscribed by chapter 707, part V;
- 14 (3) Engaging in a course of conduct or repeatedly
15 committing acts toward another person, including
16 following the person without proper authority and
17 under circumstances that place the person in
18 reasonable fear of bodily injury or physical harm;
- 19 (4) Subjecting another person to unlawful imprisonment or
20 kidnapping; or



1 (5) Attempting to cause or causing damage to property so
2 as to intimidate or attempt to control the behavior of
3 another person.

4 "Subject of domestic abuse" means a person:

5 (1) Against whom an act of domestic abuse has been
6 directed;

7 (2) Who has prior or current injuries, illnesses, or
8 disorders that resulted from domestic abuse; or

9 (3) Who seeks, may have sought, or had reason to seek
10 medical or psychological treatment for domestic abuse,
11 or protection, court-ordered protection, or shelter
12 from domestic abuse."

13 SECTION 21. Section 432D-27, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§432D-27 Policies relating to domestic abuse cases.** (a)

16 No health maintenance organization shall deny or refuse to
17 accept an application for insurance, refuse to insure, refuse to
18 renew, cancel, restrict, or otherwise terminate a policy of
19 insurance, or charge a different rate for the same coverage, on
20 the basis that the applicant or enrollee is, has been, or may be
21 a ~~[victim of domestic abuse.]~~ subject of domestic abuse.



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

6 (c) Any form filed or filed after July 15, 1998 or subject
7 to a rule adopted under chapter 91 may exclude coverage for
8 losses caused by intentional or fraudulent acts of any enrollee.

9 (d) Nothing in this section prohibits a health maintenance
10 organization from investigating a claim and complying with
11 chapter 432D.

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

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

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

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



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

4 (e) When a health maintenance organization or its
5 representative, meaning a person employed by or contracting with
6 a health maintenance organization, has information in its
7 possession that clearly indicates that the insured or applicant
8 is a subject of abuse, the disclosure or transfer of
9 confidential abuse information, as defined in this section, for
10 any purpose or to any person is prohibited, except:

- 11 (1) To the subject of domestic abuse or an individual
12 specifically designated in writing by the subject of
13 domestic abuse;
- 14 (2) To a health care provider for the direct provision of
15 health care services;
- 16 (3) To a licensed physician identified and designed by the
17 subject of domestic abuse;
- 18 (4) When ordered by the commissioner or a court of
19 competent jurisdiction or otherwise required by law;
- 20 (5) When necessary for a valid business purpose to
21 transfer information that includes confidential abuse
22 information that cannot reasonably be segregated



1 without undue hardship, confidential abuse information
2 may be disclosed only if the recipient has executed a
3 written agreement to be bound by the prohibitions of
4 this section in all respects and to be subject to the
5 enforcement of this section by the courts of this
6 State for the benefit of the applicant or insured, and
7 only to the following persons:

8 (A) A reinsurer that seeks indemnity or indemnifies
9 all or any part of a policy covering a subject of
10 domestic abuse and that cannot underwrite or
11 satisfy its obligations under the reinsurance
12 agreement without that disclosure;

13 (B) A party to a proposed or consummated sale,
14 transfer, merger, or consolidation of all or part
15 of the business of the health maintenance
16 organization or its representative;

17 (C) Medical or claims personnel contracting with the
18 health maintenance organization, only where
19 necessary to process an application or perform
20 the health maintenance organization's or its
21 representative's duties under the policy or to
22 protect the safety or privacy of a subject of



1 domestic abuse, which shall include parent or
2 affiliate companies of the health maintenance
3 organization that have services agreements with
4 the health maintenance organization or its
5 representative; or

6 (D) With respect to address and telephone number, to
7 entities with whom the health maintenance
8 organization or its representative transacts
9 business when the business cannot be transacted
10 without the address and telephone number;

11 (6) To an attorney who needs the information to represent
12 the health maintenance organization or its
13 representative effectively; provided the health
14 maintenance organization or its representative
15 notifies the attorney of its obligations under this
16 section and requests that the attorney exercise due
17 diligence to protect the confidential abuse
18 information consistent with the attorney's obligation
19 to represent the health maintenance organization or
20 its representative;



1 (7) To the policy owner or assignee, in the course of
2 delivery of the policy, if the policy contains
3 information about the abuse status; or

4 (8) To any other entities deemed appropriate by the
5 commissioner.

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

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

20 (h) A health maintenance organization that takes an action
21 that adversely affects a subject of domestic abuse shall advise
22 the applicant or enrollee who is the subject of domestic abuse



1 of the specific reasons for the action in writing. For purposes
2 of this section, reference to general underwriting practices or
3 guidelines shall not constitute a specific reason.

4 (i) As used in this section:

5 "Confidential abuse information" means information about
6 acts of domestic abuse or the abuse status of a subject of
7 domestic abuse, the address and telephone number, including home
8 and work information, of a subject of domestic abuse, or the
9 status of an applicant or insured as a family member, employer,
10 associate of, or a person in a relation with a subject of
11 domestic abuse.

12 "Domestic abuse" means the occurrence of one or more of the
13 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 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 23. In codifying the new sections added by section
4 15 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 24. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 25. This Act shall take effect on July 1, 2050.



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)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

