



GOV. MSG. NO. 1309

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 03, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

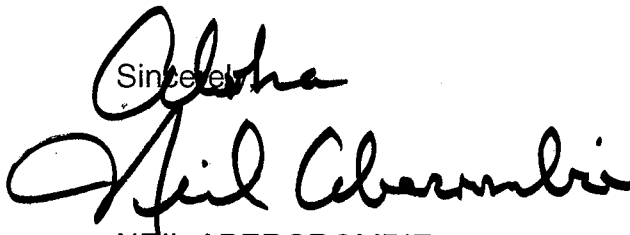
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 03, 2012, the following bill was signed into law:

HB238 HD2 SD1

RELATING TO TEMPORARY RESTRAINING
ORDERS.
Act 206 (12)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

on JUL 3 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 238
H.D. 2
S.D. 1

A BILL FOR AN ACT

RELATING TO TEMPORARY RESTRAINING ORDERS.

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

1 SECTION 1. Section 586-4, Hawaii Revised Statutes, is
2 amended by amending subsections (e) and (f) to read as follows:
3 "(e) When a temporary restraining order is granted and the
4 respondent or person to be restrained knows of the order, a
5 knowing or intentional violation of the restraining order is a
6 misdemeanor. A person convicted under this section shall
7 undergo domestic violence intervention at any available domestic
8 violence program as ordered by the court. The court
9 additionally shall sentence a person convicted under this
10 section as follows:

11 (1) [~~For~~] Except as provided in paragraph (2), for a first
12 conviction for a violation of the temporary
13 restraining order, the person shall serve a mandatory
14 minimum jail sentence of forty-eight hours and be
15 fined not less than \$150 nor more than \$500; provided
16 that the court shall not sentence a defendant to pay a
17 fine unless the defendant is or will be able to pay
18 the fine; [~~and~~]



- 1 (2) For a first conviction for a violation of the
- 2 temporary restraining order, if the person has a prior
- 3 conviction for any of the following felonies:
- 4 (A) Section 707-701 relating to murder in the first
- 5 degree;
- 6 (B) Section 707-701.5 relating to murder in the
- 7 second degree;
- 8 (C) Section 707-710 relating to assault in the first
- 9 degree;
- 10 (D) Section 707-711 relating to assault in the second
- 11 degree;
- 12 (E) Section 707-720 relating to kidnapping;
- 13 (F) Section 707-721 relating to unlawful imprisonment
- 14 in the first degree;
- 15 (G) Section 707-730 relating to sexual assault in the
- 16 first degree;
- 17 (H) Section 707-731 relating to sexual assault in the
- 18 second degree;
- 19 (I) Section 707-732 relating to sexual assault in the
- 20 third degree;



- 1 (J) Section 707-733.6 relating to continuous sexual
2 assault of a minor under the age of fourteen
3 years;
- 4 (K) Section 707-750 relating to promoting child abuse
5 in the first degree;
- 6 (L) Section 708-810 relating to burglary in the first
7 degree;
- 8 (M) Section 708-811 relating to burglary in the
9 second degree;
- 10 (N) Section 709-906 relating to abuse of family or
11 household members; or
- 12 (O) Section 711-1106.4 relating to aggravated
13 harassment by stalking;
- 14 and if any of these offenses has been committed
15 against a family or household member as defined in
16 section 586-1, the person shall serve a mandatory
17 minimum term of imprisonment of fifteen days and be
18 fined not less than \$150 nor more than \$600; provided
19 that the court shall not sentence a defendant to pay a
20 fine unless the defendant is or will be able to pay
21 the fine; and



1 [~~2~~] (3) For the second and any subsequent conviction for
2 a violation of the temporary restraining order, the
3 person shall serve a mandatory minimum jail sentence
4 of thirty days and be fined not less than \$250 nor
5 more than \$1,000; provided that the court shall not
6 sentence a defendant to pay a fine unless the
7 defendant is or will be able to pay the fine.

8 Upon conviction and sentencing of the defendant, the court
9 shall order that the defendant immediately be incarcerated to
10 serve the mandatory minimum sentence imposed; provided that the
11 defendant may be admitted to bail pending appeal pursuant to
12 chapter 804. The court may stay the imposition of the sentence
13 if special circumstances exist.

14 The court may suspend any jail sentence, except for the
15 mandatory sentences under paragraphs (1) [~~and~~], (2), and (3)
16 upon condition that the defendant remain alcohol and drug-free,
17 conviction-free, or complete court-ordered assessments or
18 intervention. Nothing in this section shall be construed as
19 limiting the discretion of the judge to impose additional
20 sanctions authorized in sentencing for a misdemeanor.



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."

4 SECTION 2. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2012.

10

APPROVED this 3 day of JUL , 2012


GOVERNOR OF THE STATE OF HAWAII

