
A BILL FOR AN ACT

RELATING TO ELECTRONIC MONITORING.

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 subsection (e) 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]~~ subsection
7 shall undergo domestic violence intervention at any available
8 domestic violence program as ordered by the court. The court
9 additionally shall sentence a person convicted under this
10 ~~[section]~~ subsection as follows:

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



1 (2) For the second and any subsequent conviction for
2 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~~] convicted person to pay a fine
7 unless the [~~defendant~~] convicted person is or will be
8 able to pay the fine.

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

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



1 If the court finds that the convicted person has knowledge
2 of the location of any protected party's residence, place of
3 employment, or school, in addition to any other penalties
4 provided in this subsection, the court, as a condition of
5 probation, may prohibit contact with the protected party through
6 the establishment of court-defined geographic exclusion zones,
7 including the areas in and around the protected party's
8 residence, place of employment, or school, and order that the
9 convicted person wear a global positioning satellite tracking
10 device designed to transmit and record the convicted person's
11 location data. If the convicted person enters a court-defined
12 geographic exclusion zone, the convicted person's location data
13 may be transmitted to the protected party and to the police
14 through any appropriate means, including the telephone, an
15 electronic beeper, or a paging device. The global positioning
16 satellite tracking device and its tracking shall be administered
17 by the court. If a court finds that the convicted person has
18 entered a geographic exclusion zone, the court shall revoke the
19 probation and the convicted person shall be fined, imprisoned,
20 or both, as provided in this subsection. Based on the convicted
21 person's ability to pay, the court may also order the convicted



1 person to pay the monthly costs or portion thereof for
2 monitoring by the global positioning satellite tracking system."

3 SECTION 2. Section 586-11, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Whenever an order for protection is granted pursuant
6 to this chapter, a respondent or person to be restrained who
7 knowingly or intentionally violates the order for protection is
8 guilty of a misdemeanor. A person convicted under this
9 ~~[section]~~ subsection shall undergo domestic violence
10 intervention at any available domestic violence program as
11 ordered by the court. The court additionally shall sentence a
12 person convicted under this ~~[section]~~ subsection as follows:

13 (1) For a first conviction for violation of the order for
14 protection:

15 (A) That is in the nature of non-domestic abuse, the
16 person may be sentenced to a jail sentence of
17 forty-eight hours and be fined not more than
18 \$150; provided that the court shall not sentence
19 a ~~[defendant]~~ convicted person to pay a fine
20 unless the ~~[defendant]~~ convicted person is or
21 will be able to pay the fine;



1 (B) That is in the nature of domestic abuse, the
2 person shall be sentenced to a mandatory minimum
3 jail sentence of not less than forty-eight hours
4 and be fined not less than \$150 nor more than
5 \$500; provided that the court shall not sentence
6 a [~~defendant~~] convicted person to pay a fine
7 unless the [~~defendant~~] convicted person is or
8 will be able to pay the fine;

9 (2) For a second conviction for violation of the order for
10 protection:

11 (A) That is in the nature of non-domestic abuse, and
12 occurs after a first conviction for violation of
13 the same order that was in the nature of non-
14 domestic abuse, the person shall be sentenced to
15 a mandatory minimum jail sentence of not less
16 than forty-eight hours and be fined not more than
17 \$250; provided that the court shall not sentence
18 a [~~defendant~~] convicted person to pay a fine
19 unless the [~~defendant~~] convicted person is or
20 will be able to pay the fine;

21 (B) That is in the nature of domestic abuse, and
22 occurs after a first conviction for violation of



1 the same order that was in the nature of domestic
 2 abuse, the person shall be sentenced to a
 3 mandatory minimum jail sentence of not less than
 4 thirty days and be fined not less than \$250 nor
 5 more than \$1,000; provided that the court shall
 6 not sentence a [~~defendant~~] convicted person to
 7 pay a fine unless the [~~defendant~~] convicted
 8 person is or will be able to pay the fine;

9 (C) That is in the nature of non-domestic abuse, and
 10 occurs after a first conviction for violation of
 11 the same order that was in the nature of domestic
 12 abuse, the person shall be sentenced to a
 13 mandatory minimum jail sentence of not less than
 14 forty-eight hours and be fined not more than
 15 \$250; provided that the court shall not sentence
 16 a [~~defendant~~] convicted person to pay a fine
 17 unless the [~~defendant~~] convicted person is or
 18 will be able to pay the fine;

19 (D) That is in the nature of domestic abuse, and
 20 occurs after a first conviction for violation of
 21 the same order that is in the nature of non-
 22 domestic abuse, the person shall be sentenced to



1 a mandatory minimum jail sentence of not less
2 than forty-eight hours and be fined not more than
3 \$150; provided that the court shall not sentence
4 a convicted person to pay a fine unless the
5 [~~defendant~~] convicted person is or will be able
6 to pay the fine;

7 (3) For any subsequent violation that occurs after a
8 second conviction for violation of the same order for
9 protection, the person shall be sentenced to a
10 mandatory minimum jail sentence of not less than
11 thirty days and be fined not less than \$250 nor more
12 than \$1,000; provided that the court shall not
13 sentence a [~~defendant~~] convicted person to pay a fine
14 unless the [~~defendant~~] convicted person is or will be
15 able to pay the fine.

16 Upon conviction and sentencing of the [~~defendant,~~
17 convicted person, the court shall order that the [~~defendant~~]
18 convicted person immediately be incarcerated to serve the
19 mandatory minimum sentence imposed; provided that the
20 [~~defendant~~] convicted person may be admitted to bail pending
21 appeal pursuant to chapter 804. The court may stay the
22 imposition of the sentence if special circumstances exist.



1 The court may suspend any jail sentence under
2 ~~[subparagraphs]~~ paragraphs (1)(A) and (2)(C), upon condition
3 that the ~~[defendant]~~ convicted person remain alcohol and drug-
4 free, conviction-free, or complete court-ordered assessments or
5 intervention. Nothing in this ~~[section]~~ subsection shall be
6 construed as limiting the discretion of the judge to impose
7 additional sanctions authorized in sentencing for a misdemeanor
8 offense. All remedies for the enforcement of judgments shall
9 apply to this chapter.

10 If the court finds that the convicted person has knowledge
11 of the location of any protected party's residence, place of
12 employment, or school, in addition to any other penalties
13 provided in this subsection, the court, as a condition of
14 probation, may prohibit contact with the protected party through
15 the establishment of court-defined geographic exclusion zones,
16 including the areas in and around the protected party's
17 residence, place of employment, or school, and order that the
18 convicted person wear a global positioning satellite tracking
19 device designed to transmit and record the convicted person's
20 location data. If the convicted person enters a court-defined
21 geographic exclusion zone, the convicted person's location data
22 may be transmitted to the protected party and to the police



1 through any appropriate means, including the telephone, an
2 electronic beeper, or a paging device. The global positioning
3 satellite tracking device and its tracking shall be administered
4 by the court. If a court finds that the convicted person has
5 entered a geographic exclusion zone, the court shall revoke the
6 probation and the convicted person shall be fined, imprisoned,
7 or both, as provided in this subsection. Based on the convicted
8 person's ability to pay, the court may also order the convicted
9 person to pay the monthly costs or portion thereof for
10 monitoring by the global positioning satellite tracking system."

11 SECTION 3. The judiciary shall establish and implement the
12 provisions relating to global satellite tracking devices under
13 sections 1 and 2 of this Act within one year of the effective
14 date of this Act.

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2050, and
2 shall be repealed on July 1, 2013; provided that sections 586-
3 4(e) and 586-11(a), Hawaii Revised Statutes, shall be reenacted
4 in the form in which they read on the day before the effective
5 date of this Act.



Report Title:

Electronic Monitoring; Protective Order Violations

Description:

Requires electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order. Effective July 1, 2011. Sunsets July 1, 2013. (HB1264 HD1)

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

