
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1

PART I

2 SECTION 1. The State continues to be plagued by incidents
3 of domestic violence. Because of the unique nature of this
4 crime and the far-reaching effects on domestic violence victims,
5 it would be helpful to establish a dedicated court meant to
6 address domestic violence cases.

7 The legislature finds that other states have experienced
8 success with domestic violence courts, which have been shown to
9 result in swift, certain, and consistent responses to domestic
10 violence, as well as enhanced victim safety and improved access
11 to court case information, social services, housing, and
12 counseling.

13 The purpose of this part is to establish a domestic
14 violence court pilot program for three years.

15 SECTION 2. (a) There is established a three-year domestic
16 violence court pilot program within the family court to which
17 shall be referred:



1 (1) Any offense committed against a child by the child's
2 parent or guardian, or by any other person having the
3 child's legal or physical custody, and any violation
4 of section 709-906;

5 (2) Any adult charged with:

6 (A) An offense, other than a felony, against the
7 person of the defendant's spouse, civil union
8 partner, or reciprocal beneficiary; or

9 (B) Any violation of an order issued pursuant to
10 chapter 586; and

11 (3) All proceedings under chapter 586.

12 (b) The judge of the domestic violence court shall be one
13 of the existing family court judges in the first circuit court,
14 to be selected by the chief justice and the senior judge of the
15 family court. The activities of the domestic violence court
16 shall be supported by related case-management and auxiliary and
17 support services, treatment, and intensive supervision
18 mechanisms.

19 (c) The judge of the domestic violence court shall:

20 (1) Preside only in the domestic violence court;

21 (2) Preside over each case from arraignment through
22 disposition; and



- 1 (3) Monitor offenders and their compliance with orders of
2 protection granted under chapter 586.
- 3 (d) The domestic violence court shall be supported by:
- 4 (1) A resource coordinator who is a licensed social worker
5 in the State and whose duties shall include:
- 6 (A) Preparing offender and victim information for the
7 judge of the domestic violence court;
- 8 (B) Working with relevant agencies and persons,
9 including the department of human services, law
10 enforcement, prosecutors, and defense counsel, to
11 coordinate information and ensure prompt
12 reporting; and
- 13 (C) Screening and referring offenders to court-
14 mandated programs; and
- 15 (2) An on-site victim advocate who shall be a licensed
16 social worker in the State and whose duties shall
17 include:
- 18 (A) Serving as a primary contact to victims
19 throughout the court proceedings;
- 20 (B) Coordinating social services for victims with
21 established service organizations that will



1 assist with housing, counseling, and the creation
2 of safety plans for victims; and

3 (C) Providing victims with information about criminal
4 proceedings and special conditions within their
5 orders of protection.

6 (e) The domestic violence court shall have broad authority
7 to:

8 (1) Require domestic violence offenders to attend
9 rehabilitation, education, vocation, medical, mental-
10 health, and substance abuse treatment programs; and

11 (2) Monitor for at least one year:

12 (A) The execution of the treatment plan of the
13 domestic violence offender; and

14 (B) The domestic violence offender's compliance with
15 the requirements of the treatment plan, including
16 regular appearances before the domestic violence
17 court to report on the domestic violence
18 offender's progress.

19 (f) The judiciary shall submit an annual report on the
20 domestic violence court pilot program with findings and
21 recommendations to the legislature no later than twenty days



1 prior to the convening of the 2013, 2014, and 2015 regular
2 sessions.

3 PART II

4 SECTION 3. (a) There is established in the department of
5 human services, for administrative purposes only, a temporary
6 domestic violence task force. The task force shall discuss and
7 seek input on policy to address domestic violence in Hawaii.

8 (b) The task force shall consist of nine members as
9 follows:

- 10 (1) A member of the house of representatives appointed by
11 the speaker of the house of representatives;
- 12 (2) A member of the senate appointed by the president of
13 the senate;
- 14 (3) The director of human services or the director's
15 designee;
- 16 (4) The director of health or the director's designee;
- 17 (5) The superintendent of education or the
18 superintendent's designee;
- 19 (6) One representative of the family court appointed by
20 the chief justice of the Hawaii supreme court; and
- 21 (7) Three members appointed by the governor from a list
22 submitted jointly by the speaker of the house of



1 representatives and the president of the senate, with
2 each member representing a different organization with
3 experience in domestic violence issues; provided that
4 the appointments shall not be subject to advise and
5 consent of the senate.

6 (c) Members of the task force shall serve without
7 compensation and shall receive no reimbursement for expenses.

8 (d) All proceedings and records of the task force shall be
9 exempt from chapter 92, Hawaii Revised Statutes.

10 (e) The task force shall submit a report of its findings
11 and recommendations, including any proposed legislation, to the
12 legislature no later than twenty days prior to the convening of
13 the regular session of 2013.

14 (f) The task force shall cease to exist on June 30, 2013.

15 PART III

16 SECTION 4. (a) The department of human services may
17 create a family justice center task force to consider the
18 establishment of one or more multi-agency, multi-disciplinary
19 family justice centers on any island in the State to assist
20 victims of domestic violence, as well as to provide related
21 family-based social services.



1 (b) The family justice center task force shall consist of
2 the following members:

- 3 (1) The director of human services or the director's
4 designee;
- 5 (2) The director of health or the director's designee;
- 6 (3) The superintendent of education or the
7 superintendent's designee;
- 8 (4) A representative from the department of the
9 prosecuting attorney, city and county of Honolulu;
- 10 (5) A representative from family court to be appointed by
11 the chief justice of the Hawaii supreme court;
- 12 (6) Two social workers from the department of human
13 services to be appointed by the director;
- 14 (7) Three members from organizations that provide services
15 for domestic violence victims to be appointed by the
16 governor; provided that each member shall be from a
17 different county;
- 18 (8) The director of the executive office on aging or the
19 director's designee;
- 20 (9) Three members from long term care organizations to be
21 appointed by the governor;



1 (10) One member to be appointed by the speaker of the house
2 of representatives; and

3 (11) One member to be appointed by the president of the
4 senate.

5 (c) The family justice center task force's members shall
6 serve without any compensation.

7 (d) The family justice center task force shall:

8 (1) Coordinate with relevant state and county agencies and
9 local nonprofit service providers to identify those
10 services that are most needed;

11 (2) Identify all federal, state, county, or private funds
12 for the establishment of a family justice center; and

13 (3) Develop an informed consent process to authorize the
14 sharing of confidential, privileged, or protected
15 information between individuals or agencies working in
16 a family justice center.

17 (e) The task force shall submit a report of its findings
18 and recommendations, including any proposed legislation, to the
19 legislature no later than twenty days prior to the convening of
20 the regular session of 2013.

21 (f) The task force shall cease to exist on June 30, 2013.



PART IV

SECTION 5. Existing state law does not require family members to immediately report any known or suspected child abuse or neglect to the department of human services or the police.

In many instances, the family has first-hand knowledge of abuse or neglect situations within their family not available to other persons who have no interactions within the family. However, because of the family connections, the abuse or neglect is not reported, sometimes resulting in serious health and safety consequences for the child.

The inclusion of family members as mandated reporters of child abuse or neglect will help ensure that instances of known child abuse or neglect will be reported directly to child welfare services or the police without delay by those who observe it. Direct reporting by those who observe the acts will ensure that the best evidence of abuse or neglect is obtained by police and will provide child welfare services the opportunity to intervene more expeditiously for the safety and well-being of the children involved.

The purpose of this part is to require certain family members to report child abuse and neglect.



1 SECTION 6. Section 350-1.1, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Notwithstanding any other state law concerning
4 confidentiality to the contrary, the following persons who, in
5 their professional or official capacity, have reason to believe
6 that child abuse or neglect has occurred or that there exists a
7 substantial risk that child abuse or neglect may occur in the
8 reasonably foreseeable future, shall immediately report the
9 matter orally to the department or to the police department:

10 (1) Any licensed or registered professional of the healing
11 arts or any health-related occupation who examines,
12 attends, treats, or provides other professional or
13 specialized services, including ~~[but not limited to]~~
14 physicians, ~~[including]~~ physicians in training,
15 psychologists, dentists, nurses, osteopathic
16 physicians and surgeons, optometrists, chiropractors,
17 podiatrists, pharmacists, and other health-related
18 professionals;

19 (2) Employees or officers of any public or private school;

20 (3) Employees or officers of any public or private agency
21 or institution, or other individuals, providing



- 1 social, medical, hospital, or mental health services,
2 including financial assistance;
- 3 (4) Employees or officers of any law enforcement agency,
4 including ~~[but not limited to]~~ the courts, police
5 departments, the department of public safety,
6 correctional institutions, and parole or probation
7 offices;
- 8 (5) Individual providers of child care, or employees or
9 officers of any licensed or registered child care
10 facility, foster home, or similar institution;
- 11 (6) Medical examiners or coroners; ~~[and]~~
- 12 (7) Employees of any public or private agency providing
13 recreational or sports activities~~[-]~~; and
- 14 (8) Any member of a family as defined in section 587A-4
15 who has reached the age of majority and who has
16 knowledge that child abuse or neglect in the family is
17 occurring or has knowledge that a child in the family
18 has been harmed due to abuse or neglect; provided that
19 family members who are victims of domestic violence
20 shall not be required to report child abuse or neglect
21 under this section if the alleged perpetrator is



1 actively abusing both the child and the family
2 member."

3 PART V

4 SECTION 7. Section 586-4, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) When a temporary restraining order is granted and the
7 respondent or person to be restrained knows of the order, a
8 knowing or intentional violation of the restraining order is a
9 misdemeanor. A person convicted under this [~~section~~] subsection
10 shall undergo domestic violence intervention at any available
11 domestic violence program as ordered by the court. The court
12 additionally shall sentence a person convicted under this
13 [~~section~~] subsection as follows:

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

21 (2) For the second and any subsequent conviction for
22 violation of the temporary restraining order, the



1 person shall serve a mandatory minimum jail sentence
2 of thirty days and be fined not less than \$250 nor
3 more than \$1,000; provided that the court shall not
4 sentence a defendant to pay a fine unless the
5 defendant is or will be able to pay the fine.

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

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

19 If the court finds that the defendant has knowledge of the
20 location of any protected party's residence, place of
21 employment, or school, in addition to any other penalties
22 provided in this subsection, the court, as a condition of



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

20 SECTION 8. Section 586-11, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



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

9 (1) For a first conviction for violation of the order for
10 protection:

11 (A) That is in the nature of non-domestic abuse, the
12 person may be sentenced to a jail sentence of
13 forty-eight hours and be fined not more than
14 \$150; provided that the court shall not sentence
15 a defendant to pay a fine unless the defendant is
16 or will be able to pay the fine;

17 (B) That is in the nature of domestic abuse, the
18 person shall be sentenced to a mandatory minimum
19 jail sentence of not less than forty-eight hours
20 and be fined not less than \$150 nor more than
21 \$500; provided that the court shall not sentence

1 a defendant to pay a fine unless the defendant is
2 or will be able to pay the fine;

3 (2) For a second conviction for violation of the order for
4 protection:

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

14 (B) That is in the nature of domestic abuse, and
15 occurs after a first conviction for violation of
16 the same order that was in the nature of domestic
17 abuse, the person shall be sentenced to a
18 mandatory minimum jail sentence of not less than
19 thirty days and be fined not less than \$250 nor
20 more than \$1,000; provided that the court shall
21 not sentence a defendant to pay a fine unless the
22 defendant is or will be able to pay the fine;

1 (C) That is in the nature of non-domestic abuse, and
2 occurs after a first conviction for violation of
3 the same order that was in the nature of domestic
4 abuse, the person shall be sentenced to a
5 mandatory minimum jail sentence of not less than
6 forty-eight hours and be fined not more than
7 \$250; provided that the court shall not sentence
8 a defendant to pay a fine unless the defendant is
9 or will be able to pay the fine;

10 (D) That is in the nature of domestic abuse, and
11 occurs after a first conviction for violation of
12 the same order that is in the nature of non-
13 domestic abuse, the person shall be sentenced to
14 a mandatory minimum jail sentence of not less
15 than forty-eight hours and be fined not more than
16 \$150; provided that the court shall not sentence
17 a defendant to pay a fine unless the defendant is
18 or will be able to pay the fine;

19 (3) For any subsequent violation that occurs after a
20 second conviction for violation of the same order for
21 protection, the person shall be sentenced to a
22 mandatory minimum jail sentence of not less than



1 thirty days and be fined not less than \$250 nor more
2 than \$1,000; provided that the court shall not
3 sentence a defendant to pay a fine unless the
4 defendant is or will be able to pay the fine.

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

11 The court may suspend any jail sentence under
12 ~~[subparagraphs]~~ paragraphs (1)(A) and (2)(C), upon condition
13 that the defendant remain alcohol and drug-free, conviction-
14 free, or complete court-ordered assessments or intervention.
15 Nothing in this ~~[section]~~ subsection shall be construed as
16 limiting the discretion of the judge to impose additional
17 sanctions authorized in sentencing for a misdemeanor offense.
18 All remedies for the enforcement of judgments shall apply to
19 this chapter.

20 If the court finds that the defendant has knowledge of the
21 location of any protected party's residence, place of
22 employment, or school, in addition to any other penalties



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

21 SECTION 9. The judiciary shall establish and implement the
22 provisions relating to global satellite tracking devices under



1 sections 7 and 8 within one year of the effective date of this
2 Act.

3 PART VI

4 SECTION 10. This Act does not affect rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun before its effective date.

7 SECTION 11. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2012;
10 provided that:

11 (1) Part I shall be repealed on July 1, 2015, and upon
12 such repeal section 571-14(a), Hawaii Revised
13 Statutes, shall be reenacted in the form in which it
14 read on the day before the effective date of this Act;
15 and

16 (2) Part V shall take effect on July 1, 2012 and shall be
17 repealed on July 1, 2014; provided further that
18 sections 586-4(e) and 586-11(a), Hawaii Revised
19 Statutes, shall be reenacted in the form in which they
20 read on the day before the effective date of this Act.

21

INTRODUCED BY:

John M. Burns
Tommy
[Signature]



H.B. NO. 1919

Reppel

JAN 17 2012



H.B. NO. 1919

Report Title:

Domestic Violence

Description:

Establishes a domestic violence court pilot program and a domestic violence task force. authorizes the department of human services to create a family justice task force. Broadens the group of persons required to report child abuse and neglect. Authorizes electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order.

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

