
A BILL FOR AN ACT

RELATING TO ORDERS FOR PROTECTION.

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

1 SECTION 1. Section 586-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§586-11 Violation of an order for protection.** (a)
4 Whenever an order for protection is granted pursuant to this
5 chapter, a respondent or person to be restrained who knowingly
6 or intentionally violates the order for protection is guilty of
7 a misdemeanor. A person convicted under this section shall
8 undergo domestic violence intervention at any available domestic
9 violence program as ordered by the court. The court
10 additionally shall sentence a person convicted under this
11 section as follows:

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

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



1 or will be able to pay the fine[+]. If the
2 person has a prior conviction for any of the
3 following felonies: section 707-701 relating to
4 murder in the first degree; section 707-701.5
5 relating to murder in the second degree; section
6 707-710 relating to assault in the first degree;
7 section 707-711 relating to assault in the second
8 degree; section 707-720 relating to kidnapping;
9 section 707-721 relating to unlawful imprisonment
10 in the first degree; section 707-730 relating to
11 sexual assault in the first degree; section 707-
12 731 relating to sexual assault in the second
13 degree; section 707-732 relating to sexual
14 assault in the third degree; section 707-733.6
15 relating to continuous sexual assault of a minor
16 under the age of fourteen years; section 707-750
17 relating to promoting child abuse in the first
18 degree; section 708-810 relating to burglary in
19 the first degree; section 708-811 relating to
20 burglary in the second degree; section 709-906
21 relating to the abuse of family or household
22 members; or section 711-1106.4 relating to



1 aggravated harassment by stalking, then for a
2 first conviction for violation of the order for
3 protection, the person shall be sentenced to a
4 mandatory minimum jail sentence of not less than
5 fifteen days and be fined not less than \$150 nor
6 more than \$600; provided that the court shall not
7 sentence a defendant to pay a fine unless the
8 defendant is or will be able to pay the fine;

9 (B) That is in the nature of domestic abuse, the
10 person shall be sentenced to a mandatory minimum
11 jail sentence of not less than forty-eight hours
12 and be fined not less than \$150 nor more than
13 \$500; provided that the court shall not sentence
14 a defendant to pay a fine unless the defendant is
15 or will be able to pay the fine[+]. If the
16 person has a prior conviction for any of the
17 following felonies: section 707-701 relating to
18 murder in the first degree; section 707-701.5
19 relating to murder in the second degree; section
20 707-710 relating to assault in the first degree;
21 section 707-711 relating to assault in the second
22 degree; section 707-720 relating to kidnapping;



1 section 707-721 relating to unlawful imprisonment
2 in the first degree; section 707-730 relating to
3 sexual assault in the first degree; section 707-
4 731 relating to sexual assault in the second
5 degree; section 707-732 relating to sexual
6 assault in the third degree; section 707-733.6
7 relating to continuous sexual assault of a minor
8 under the age of fourteen years; section 707-750
9 relating to promoting child abuse in the first
10 degree; section 708-810 relating to burglary in
11 the first degree; section 708-811 relating to
12 burglary in the second degree; section 709-906
13 relating to the abuse of family or household
14 members; or section 711-1106.4 relating to
15 aggravated harassment by stalking, then for a
16 first conviction for violation of the order for
17 protection, the person shall be sentenced to a
18 mandatory minimum jail sentence of not less than
19 fifteen days and be fined not less than \$150 nor
20 more than \$600; provided that the court shall not
21 sentence a defendant to pay a fine unless the
22 defendant is or will be able to pay the fine;



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

3 (A) That is in the nature of non-domestic abuse, and
4 occurs after a first conviction for violation of
5 the same order that was in the nature of non-
6 domestic abuse, the person shall be sentenced to
7 a mandatory minimum jail sentence of not less
8 than forty-eight hours and be fined not more than
9 \$250; provided that the court shall not sentence
10 a defendant to pay a fine unless the defendant is
11 or will be able to pay the fine[+]. If the
12 person has a prior conviction for any of the
13 following felonies: section 707-701 relating to
14 murder in the first degree; section 707-701.5
15 relating to murder in the second degree; section
16 707-710 relating to assault in the first degree;
17 section 707-711 relating to assault in the second
18 degree; section 707-720 relating to kidnapping;
19 section 707-721 relating to unlawful imprisonment
20 in the first degree; section 707-730 relating to
21 sexual assault in the first degree; section 707-
22 731 relating to sexual assault in the second



1 degree; section 707-732 relating to sexual
2 assault in the third degree; section 707-733.6
3 relating to continuous sexual assault of a minor
4 under the age of fourteen years; section 707-750
5 relating to promoting child abuse in the first
6 degree; section 708-810 relating to burglary in
7 the first degree; section 708-811 relating to
8 burglary in the second degree; section 709-906
9 relating to the abuse of family or household
10 members; or section 711-1106.4 relating to
11 aggravated harassment by stalking, then for a
12 second conviction for violation of the order for
13 protection, the person shall be sentenced to a
14 mandatory minimum jail sentence of not less than
15 thirty days and be fined not less than \$250 nor
16 more than \$1,000; provided that the court shall
17 not sentence a defendant to pay a fine unless the
18 defendant is or will be able to pay the fine;

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



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

6 (C) That is in the nature of non-domestic abuse, and
7 occurs after a first conviction for violation of
8 the same order that was in the nature of domestic
9 abuse, the person shall be sentenced to a
10 mandatory minimum jail sentence of not less than
11 forty-eight hours and be fined not more than
12 \$250; provided that the court shall not sentence
13 a defendant to pay a fine unless the defendant is
14 or will be able to pay the fine[+]. If the
15 person has a prior conviction for any of the
16 following felonies: section 707-701 relating to
17 murder in the first degree; section 707-701.5
18 relating to murder in the second degree; section
19 707-710 relating to assault in the first degree;
20 section 707-711 relating to assault in the second
21 degree; section 707-720 relating to kidnapping;
22 section 707-721 relating to unlawful imprisonment



1 in the first degree; section 707-730 relating to
2 sexual assault in the first degree; section 707-
3 731 relating to sexual assault in the second
4 degree; section 707-732 relating to sexual
5 assault in the third degree; section 707-733.6
6 relating to continuous sexual assault of a minor
7 under the age of fourteen years; section 707-750
8 relating to promoting child abuse in the first
9 degree; section 708-810 relating to burglary in
10 the first degree; section 708-811 relating to
11 burglary in the second degree; section 709-906
12 relating to the abuse of family or household
13 members; or section 711-1106.4 relating to
14 aggravated harassment by stalking, then for a
15 second conviction for violation of the order for
16 protection, the person shall be sentenced to a
17 mandatory minimum jail sentence of not less than
18 thirty days and be fined not less than \$250 nor
19 more than \$1,000; provided that the court shall
20 not sentence a defendant to pay a fine unless the
21 defendant is or will be able to pay the fine;



1 (D) That is in the nature of domestic abuse, and
2 occurs after a first conviction for violation of
3 the same order that is in the nature of non-
4 domestic abuse, the person shall be sentenced to
5 a mandatory minimum jail sentence of not less
6 than forty-eight hours and be fined not [~~more~~]
7 less than \$150 nor more than \$600; provided that
8 the court shall not sentence a defendant to pay a
9 fine unless the defendant is or will be able to
10 pay the fine[+]. If the person has a prior
11 conviction for any of the following felonies:
12 section 707-701 relating to murder in the first
13 degree; section 707-701.5 relating to murder in
14 the second degree; section 707-710 relating to
15 assault in the first degree; section 707-711
16 relating to assault in the second degree; section
17 707-720 relating to kidnapping; section 707-721
18 relating to unlawful imprisonment in the first
19 degree; section 707-730 relating to sexual
20 assault in the first degree; section 707-731
21 relating to sexual assault in the second degree;
22 section 707-732 relating to sexual assault in the



1 third degree; section 707-733.6 relating to
2 continuous sexual assault of a minor under the
3 age of fourteen years; section 707-750 relating
4 to promoting child abuse in the first degree;
5 section 708-810 relating to burglary in the first
6 degree; section 708-811 relating to burglary in
7 the second degree; section 709-906 relating to
8 the abuse of family or household members; or
9 section 711-1106.4 relating to aggravated
10 harassment by stalking, then for a second
11 conviction for violation of the order for
12 protection, the person shall be sentenced to a
13 mandatory minimum jail sentence of not less than
14 thirty days and be fined not less than \$250 nor
15 more than \$1,000; provided that the court shall
16 not sentence a defendant to pay a fine unless the
17 defendant is or will be able to pay the fine;

- 18 (3) For any subsequent violation that occurs after a
19 second conviction for violation of the same order for
20 protection, the person shall be sentenced to a
21 mandatory minimum jail sentence of not less than
22 thirty days and be fined not less than \$250 nor more



1 than \$1,000; provided that the court shall not
2 sentence a defendant to pay a fine unless the
3 defendant is or will be able to pay the fine.

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

10 The court may suspend any jail sentence under subparagraphs
11 (1) (A) and (2) (C), upon condition that the defendant remain
12 alcohol and drug-free, conviction-free, or complete court-
13 ordered assessments or intervention[-]; provided that the court
14 shall not suspend any jail sentence for a person with a prior
15 conviction for any of the following felonies: section 707-701
16 relating to murder in the first degree; section 707-701.5
17 relating to murder in the second degree; section 707-710
18 relating to assault in the first degree; section 707-711
19 relating to assault in the second degree; section 707-720
20 relating to kidnapping; section 707-721 relating to unlawful
21 imprisonment in the first degree; section 707-730 relating to
22 sexual assault in the first degree; section 707-731 relating to



1 sexual assault in the second degree; section 707-732 relating to
2 sexual assault in the third degree; section 707-733.6 relating
3 to continuous sexual assault of a minor under the age of
4 fourteen years; section 707-750 relating to promoting child
5 abuse in the first degree; section 708-810 relating to burglary
6 in the first degree; section 708-811 relating to burglary in the
7 second degree; section 709-906 relating to the abuse of family
8 or household members; or section 711-1106.4 relating to
9 aggravated harassment by stalking. Nothing in this section
10 shall be construed as limiting the discretion of the judge to
11 impose additional sanctions authorized in sentencing for a
12 misdemeanor offense. All remedies for the enforcement of
13 judgments shall apply to this chapter.

14 (b) Any fines collected pursuant to subsection (a) shall
15 be deposited into the spouse and child abuse special account
16 established under section 601-3.6."

17 SECTION 2. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2011.



Report Title:

Order for Protection; Violations

Description:

Enhances penalties for a person who has a prior conviction for certain crimes and is subsequently convicted of violating an order of protection. Effective July 1, 2011. (HB239 HD1)

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

