

JAN 26 2011

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**A BILL FOR AN ACT**

RELATING TO THE PENAL CODE.

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

1 SECTION 1. This Act shall be known as the "Protect Victims  
2 of Domestic Violence Act."

3 SECTION 2. Section 707-701, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of murder in the first  
6 degree if the person intentionally or knowingly causes the death  
7 of:

8 (a) More than one person in the same or separate incident;

9 (b) A law enforcement officer, judge, or prosecutor  
10 arising out of the performance of official duties;

11 (c) A person known by the defendant to be a witness in a  
12 criminal prosecution and the killing is related to the  
13 person's status as a witness;

14 (d) A person by a hired killer, in which event both the  
15 person hired and the person responsible for hiring the  
16 killer shall be punished under this section; [~~or~~]

17 (e) A person while the defendant was imprisoned[~~-~~];

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- (f) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or
- (g) A person who is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order."

SECTION 3. Section 707-701.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of murder in the second degree if:

- (a) Except as provided in section 707-701, [~~a person commits the offense of murder in the second degree if~~] the person intentionally or knowingly causes the death of another person~~[-]~~; or
- (b) The person recklessly causes the death of:
  - (i) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or

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1           (ii) A person who is being protected by a police  
2                   officer ordering the defendant to leave the  
3                   premises of that protected person pursuant to  
4                   section 709-906(4), during the effective period  
5                   of that order."

6           SECTION 4. Section 707-711, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8           "(1) A person commits the offense of assault in the second  
9 degree if:

- 10           (a) The person intentionally or knowingly causes  
11                   substantial bodily injury to another;
- 12           (b) The person recklessly causes serious or substantial  
13                   bodily injury to another;
- 14           (c) The person intentionally or knowingly causes bodily  
15                   injury to a correctional worker, as defined in section  
16                   710-1031(2), who is engaged in the performance of duty  
17                   or who is within a correctional facility;
- 18           (d) The person intentionally or knowingly causes bodily  
19                   injury to another with a dangerous instrument;
- 20           (e) The person intentionally or knowingly causes bodily  
21                   injury to an educational worker who is engaged in the  
22                   performance of duty or who is within an educational

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1 facility. For the purposes of this paragraph,  
2 "educational worker" means: any administrator,  
3 specialist, counselor, teacher, or employee of the  
4 department of education or an employee of a charter  
5 school; a person who is a volunteer, as defined in  
6 section 90-1, in a school program, activity, or  
7 function that is established, sanctioned, or approved  
8 by the department of education; or a person hired by  
9 the department of education on a contractual basis and  
10 engaged in carrying out an educational function;

11 (f) The person intentionally or knowingly causes  
12 bodily injury to any emergency medical services  
13 provider who is engaged in the performance of duty.  
14 For the purposes of this paragraph, "emergency medical  
15 services provider" means emergency medical services  
16 personnel, as defined in section 321-222, and  
17 physicians, physician's assistants, nurses, nurse  
18 practitioners, certified registered nurse  
19 anesthetists, respiratory therapists, laboratory  
20 technicians, radiology technicians, and social  
21 workers, providing services in the emergency room of a  
22 hospital; [~~or~~]

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1 (g) The person intentionally or knowingly causes bodily  
2 injury to a person employed at a state-operated or  
3 -contracted mental health facility. For the purposes  
4 of this paragraph, "a person employed at a state-  
5 operated or -contracted mental health facility"  
6 includes health care professionals as defined in  
7 section 451D-2, administrators, orderlies, security  
8 personnel, volunteers, and any other person who is  
9 engaged in the performance of a duty at a state-  
10 operated or -contracted mental health facility[-]; or

11 (h) The person intentionally, knowingly, or recklessly  
12 causes bodily injury to:

13 (i) A person who the defendant has been restrained,  
14 by order of any court, including an ex parte  
15 order, from contacting, threatening, or  
16 physically abusing pursuant to chapter 586; or

17 (ii) A person who is being protected by a police  
18 officer ordering the defendant to leave the  
19 premises of that protected person pursuant to  
20 section 709-906(4), during the effective period  
21 of that order."

22 SECTION 5. Section 707-716, Hawaii Revised Statutes, is

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1 amended by amending subsection (1) to read as follows:

2 "(1) A person commits the offense of terroristic  
3 threatening in the first degree if the person commits  
4 terroristic threatening:

5 (a) By threatening another person on more than one  
6 occasion for the same or a similar purpose;

7 (b) By threats made in a common scheme against different  
8 persons;

9 (c) Against a public servant arising out of the  
10 performance of the public servant's official duties.  
11 For the purposes of this paragraph, "public servant"  
12 includes but is not limited to an educational worker.  
13 "Educational worker" has the same meaning as defined  
14 in section 707-711;

15 (d) Against any emergency medical services provider who is  
16 engaged in the performance of duty. For the purposes  
17 of this paragraph, "emergency medical services  
18 provider" means emergency medical services personnel,  
19 as defined in section 321-222, and physicians,  
20 physician's assistants, nurses, nurse practitioners,  
21 certified registered nurse anesthetists, respiratory  
22 therapists, laboratory technicians, radiology

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1 technicians, and social workers, providing services in  
2 the emergency room of a hospital; [~~e~~]

3 (e) With the use of a dangerous instrument[~~-~~]; or

4 (f) By threatening:

5 (i) A person who the defendant has been restrained,  
6 by order of any court, including an ex parte  
7 order, from contacting, threatening, or  
8 physically abusing pursuant to chapter 586; or

9 (ii) A person who is being protected by a police  
10 officer ordering the defendant to leave the  
11 premises of that protected person pursuant to  
12 section 709-906(4), during the effective period  
13 of that order."

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.

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18 INTRODUCED BY: AS.TZ.

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BY REQUEST

**Report Title:**

Penal Code; Domestic Violence Victim Protection.

**Description:**

To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.



JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

MEANS: Amend sections 707-701(1), 707-701.5(1), 707-711(1), and 707-716(1), Hawaii Revised Statutes.

JUSTIFICATION: This bill will help deter violence against a particularly vulnerable class of victims in high risk situations. Victims of domestic violence often endure extended periods of mental abuse, intimidation, harassment, terrorization, and physical violence before they reach out for help. It can take a great deal of courage, strength, and desperation to seek the help of the police, the court system, and others. And often, even with intervention by the police and judges, the abuse and violence do not end. Current laws do not provide an adequate deterrent. This bill is intended to do that.

This bill, the "Protect Victims of Domestic Violence Act," amends the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree to include conduct committed against victims who the courts and police are attempting to keep safe with protective orders. It makes clear that crimes against these victims are very serious. It is intended to provide a greater deterrent to such violence against a particularly vulnerable class of victims in a high risk situation. When these victims

cry for help, they should be able to get the protection that they are seeking and be safe from their abusers.

Impact on the public: Victims of domestic violence are more likely to seek help from the police and the courts and actually get that help, if the abusers are deterred from violating protective orders for fear of harsh criminal prosecution.

Impact on the department and other agencies: Hopefully, there will be more victims seeking protection of the police and courts; and there will be fewer crimes of domestic violence against those victims.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.