

JAN 19 2012

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# 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:



# S.B. NO. 2131

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.





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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 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: *Shianne Chun Oakland*  
*By Request*



**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.*

