

JAN 19 2012

A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE.

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

1 SECTION 1. Chapter 586, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§586- Permanent protective order. (a) If an order
5 for protection is issued pursuant to section 586-3 or 586-5.5 to
6 prevent any act of abuse or a recurrence of any act of abuse
7 that would constitute an offense under part V or VI of chapter
8 707, the court shall order that the protective order in that
9 regard shall be permanent.

10 (b) The permanent protective order may include all orders
11 stated in a previous order and may provide for further relief as
12 the court deems necessary to prevent such abuse or a recurrence
13 of such abuse, including orders establishing temporary
14 visitation and custody with regard to minor children of the
15 parties and orders to either or both parties to participate in
16 domestic violence intervention services."



1 SECTION 2. Section 586-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "domestic abuse" to read
3 as follows:

4 "Domestic abuse" means:

5 (1) Physical harm, bodily injury, assault, or the threat
6 of imminent physical harm, bodily injury, or assault,
7 extreme psychological abuse or malicious property
8 damage between family or household members; or

9 (2) Any act which would constitute an offense under
10 section 709-906, or under part V or VI of chapter 707
11 committed against a [~~minor~~] family or household member
12 by [~~an adult~~] another family or household member."

13 SECTION 3. Section 586-3, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) A petition for relief shall be in writing upon forms
16 provided by the court and shall allege, under penalty of
17 perjury, that: a past act or acts of domestic abuse may have
18 occurred; threats of abuse make it probable that acts of
19 domestic abuse may be imminent; or extreme psychological abuse
20 or malicious property damage may have occurred or is imminent;
21 and be accompanied by an affidavit made under oath or a



1 statement made under penalty of perjury stating the specific
2 facts and circumstances from which relief is sought."

3 SECTION 4. Section 586-5.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§586-5.5 Protective order; additional orders.** (a) If,
6 after hearing all relevant evidence, the court finds that the
7 respondent has failed to show cause why the temporary
8 restraining order should not be continued and that a protective
9 order is necessary to prevent domestic abuse or a recurrence of
10 abuse, the court may order that a protective order be issued for
11 a further fixed reasonable period as the court deems
12 appropriate[-], except as otherwise specified in section
13 586-_____.

14 (b) The protective order issued by the court may include
15 all orders stated in the temporary restraining order and may
16 provide for further relief as the court deems necessary to
17 prevent domestic abuse or a recurrence of abuse, including
18 orders establishing temporary visitation and custody with regard
19 to minor children of the parties and orders to either or both
20 parties to participate in domestic violence intervention
21 services. If the court finds that the party meets the
22 requirements under section 334-59(a)(2), the court further may



1 order that the party be taken to the nearest facility for
2 emergency examination and treatment.

3 ~~[(b)]~~ (c) A non-permanent protective order may be extended
4 for such further fixed reasonable period as the court deems
5 appropriate. Upon application by a person or agency capable of
6 petitioning under section 586-3, the court shall hold a hearing
7 to determine whether the protective order should be extended.
8 In making a determination, the court shall consider evidence of
9 abuse and threats of abuse that occurred prior to the initial
10 ~~[restraining]~~ order and whether good cause exists to extend the
11 protective order.

12 (d) The extended protective order may include all orders
13 stated in the preceding ~~[restraining]~~ protective order and may
14 provide such further relief as the court deems necessary to
15 prevent domestic abuse or a recurrence of abuse, including
16 orders establishing temporary visitation and custody with regard
17 to minor children of the parties and orders to either or both
18 parties to participate in domestic violence intervention
19 services.

20 (e) The court may terminate ~~[the extended]~~ a protective
21 order at any time with the mutual consent of the parties."



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY: *Shianne Chun Oakland*
By Request



S.B. NO. 2142

Report Title:

Child Abuse; Permanent Protective Order; Sexual Abuse

Description:

Establishes that if a protective order is issued to prevent sexual offenses or child abuse or a recurrence of such acts between family or household members, the court shall issue a permanent protective order. Amends the definition of domestic abuse to include sexual offenses or child abuse committed by one family or household member against another family or household member.

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

