
A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE.

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

1 SECTION 1. Section 586-4, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

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

11 (1) Except as provided in paragraph (2), for a first
12 conviction for a violation of the temporary
13 restraining order, the person shall serve a mandatory
14 minimum jail sentence of forty-eight hours and be
15 fined not less than \$150 nor more than \$500; provided
16 that the court shall not sentence a [~~defendant~~]
17 convicted person to pay a fine unless the [~~defendant~~]
18 convicted person is or will be able to pay the fine;



- 1 (2) For a first conviction for a violation of the
- 2 temporary restraining order, if the person has a prior
- 3 conviction for any of the following felonies:
- 4 (A) Section 707-701 relating to murder in the first
- 5 degree;
- 6 (B) Section 707-701.5 relating to murder in the
- 7 second degree;
- 8 (C) Section 707-710 relating to assault in the first
- 9 degree;
- 10 (D) Section 707-711 relating to assault in the second
- 11 degree;
- 12 (E) Section 707-720 relating to kidnapping;
- 13 (F) Section 707-721 relating to unlawful imprisonment
- 14 in the first degree;
- 15 (G) Section 707-730 relating to sexual assault in the
- 16 first degree;
- 17 (H) Section 707-731 relating to sexual assault in the
- 18 second degree;
- 19 (I) Section 707-732 relating to sexual assault in the
- 20 third degree;



- 1 (J) Section 707-733.6 relating to continuous sexual
- 2 assault of a minor under the age of fourteen
- 3 years;
- 4 (K) Section 707-750 relating to promoting child abuse
- 5 in the first degree;
- 6 (L) Section 708-810 relating to burglary in the first
- 7 degree;
- 8 (M) Section 708-811 relating to burglary in the
- 9 second degree;
- 10 (N) Section 709-906 relating to abuse of family or
- 11 household members; or
- 12 (O) Section 711-1106.4 relating to aggravated
- 13 harassment by stalking;
- 14 and if any of these offenses has been committed
- 15 against a family or household member as defined in
- 16 section 586-1, the person shall serve a mandatory
- 17 minimum term of imprisonment of fifteen days and be
- 18 fined not less than \$150 nor more than \$600; provided
- 19 that the court shall not sentence a [~~defendant~~]
- 20 convicted person to pay a fine unless the [~~defendant~~]
- 21 convicted person is or will be able to pay the fine;
- 22 and



1 (3) For the second and any subsequent conviction for a
2 violation of the temporary restraining order, the
3 person shall serve a mandatory minimum jail sentence
4 of thirty days and be fined not less than \$250 nor
5 more than \$1,000; provided that the court shall not
6 sentence a [~~defendant~~] convicted person to pay a fine
7 unless the [~~defendant~~] convicted person is or will be
8 able to pay the fine.

9 Upon conviction and sentencing of the [~~defendant~~],
10 convicted person, the court shall order that the [~~defendant~~]
11 convicted person immediately be incarcerated to serve the
12 mandatory minimum sentence imposed; provided that the
13 [~~defendant~~] convicted person may be admitted to bail pending
14 appeal pursuant to chapter 804. The court may stay the
15 imposition of the sentence if special circumstances exist.

16 The court may suspend any jail sentence, except for the
17 mandatory sentences under paragraphs (1), (2), and (3) upon
18 condition that the [~~defendant~~] convicted person remain alcohol
19 and drug-free, conviction-free, or complete court-ordered
20 assessments or intervention. Nothing in this [~~section~~]
21 subsection shall be construed as limiting the discretion of the



1 judge to impose additional sanctions authorized in sentencing
2 for a misdemeanor.

3 If the court finds that the convicted person has knowledge
4 of the location of any protected party's residence, place of
5 employment, or school, in addition to any other penalties
6 provided in this subsection, the court, as a condition of
7 probation, may prohibit contact with the protected party through
8 the establishment of court-defined geographic exclusion zones,
9 including the areas in and around the protected party's
10 residence, place of employment, or school, and order that the
11 convicted person wear a global positioning satellite tracking
12 device designed to transmit and record the convicted person's
13 location data. If the convicted person enters a court-defined
14 geographic exclusion zone, the convicted person's location data
15 may be transmitted to the protected party and to the police
16 through any appropriate means, including the telephone, an
17 electronic beeper, or a paging device. The global positioning
18 satellite tracking device and its tracking shall be administered
19 by the court. If a court finds that the convicted person has
20 entered a court-defined geographic exclusion zone, the court
21 shall revoke the probation and the convicted person shall be
22 finned, imprisoned, or both, as provided in this subsection.



1 Based on the convicted person's ability to pay, the court may
2 also order the convicted person to pay the monthly costs or
3 portion thereof for monitoring by the global positioning
4 satellite tracking system."

5 SECTION 2. Section 586-11, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

15 (1) For a first conviction for violation of the order for
16 protection:

17 (A) That is in the nature of non-domestic abuse, the
18 person may be sentenced to a jail sentence of
19 forty-eight hours and be fined not more than
20 \$150; provided that the court shall not sentence
21 a [~~defendant~~] convicted person to pay a fine



1 unless the [~~defendant~~] convicted person is or
2 will be able to pay the fine;

3 (B) That is in the nature of domestic abuse, the
4 person shall be sentenced to a mandatory minimum
5 jail sentence of not less than forty-eight hours
6 and be fined not less than \$150 nor more than
7 \$500; provided that the court shall not sentence
8 a [~~defendant~~] convicted person to pay a fine
9 unless the [~~defendant~~] convicted person is or
10 will be able to pay the fine;

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

13 (A) That is in the nature of non-domestic abuse, and
14 occurs after a first conviction for violation of
15 the same order that was in the nature of non-
16 domestic abuse, the person shall be sentenced to
17 a mandatory minimum jail sentence of not less
18 than forty-eight hours and be fined not more than
19 \$250; provided that the court shall not sentence
20 a [~~defendant~~] convicted person to pay a fine
21 unless the [~~defendant~~] convicted person is or
22 will be able to pay the fine;



1 (B) That is in the nature of 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 thirty days and be fined not less than \$250 nor
7 more than \$1,000; provided that the court shall
8 not sentence a [~~defendant~~] convicted person to
9 pay a fine unless the [~~defendant~~] convicted
10 person is or will be able to pay the fine;

11 (C) That is in the nature of non-domestic abuse, and
12 occurs after a first conviction for violation of
13 the same order that was in the nature of domestic
14 abuse, the person shall be sentenced to a
15 mandatory minimum jail sentence of not less than
16 forty-eight hours and be fined not more than
17 \$250; provided that the court shall not sentence
18 a [~~defendant~~] convicted person to pay a fine
19 unless the [~~defendant~~] convicted person is or
20 will be able to pay the fine;

21 (D) That is in the nature of domestic abuse, and
22 occurs after a first conviction for violation of



1 the same order that is in the nature of non-
2 domestic abuse, the person shall be sentenced to
3 a mandatory minimum jail sentence of not less
4 than forty-eight hours and be fined not more than
5 \$150; provided that the court shall not sentence
6 a [~~defendant~~] convicted person to pay a fine
7 unless the [~~defendant~~] convicted person is or
8 will be able to pay the fine;

- 9 (3) For any subsequent violation that occurs after a
10 second conviction for violation of the same order for
11 protection, the person shall be sentenced to a
12 mandatory minimum jail sentence of not less than
13 thirty days and be fined not less than \$250 nor more
14 than \$1,000; provided that the court shall not
15 sentence a [~~defendant~~] convicted person to pay a fine
16 unless the [~~defendant~~] convicted person is or will be
17 able to pay the fine.

18 Upon conviction and sentencing of the [~~defendant,~~]
19 convicted person, the court shall order that the [~~defendant~~]
20 convicted person immediately be incarcerated to serve the
21 mandatory minimum sentence imposed; provided that the
22 [~~defendant~~] convicted person may be admitted to bail pending



1 appeal pursuant to chapter 804. The court may stay the
2 imposition of the sentence if special circumstances exist.

3 The court may suspend any jail sentence under
4 ~~[subparagraphs]~~ paragraphs (1)(A) and (2)(C), upon condition
5 that the ~~[defendant]~~ convicted person remain alcohol and drug-
6 free, conviction-free, or complete court-ordered assessments or
7 intervention. Nothing in this ~~[section]~~ subsection shall be
8 construed as limiting the discretion of the judge to impose
9 additional sanctions authorized in sentencing for a misdemeanor
10 offense. All remedies for the enforcement of judgments shall
11 apply to this chapter.

12 If the court finds that the convicted person has knowledge
13 of the location of any protected party's residence, place of
14 employment, or school, in addition to any other penalties
15 provided in this subsection, the court, as a condition of
16 probation, may prohibit contact with the protected party through
17 the establishment of court-defined geographic exclusion zones,
18 including the areas in and around the protected party's
19 residence, place of employment, or school, and order that the
20 convicted person wear a global positioning satellite tracking
21 device designed to transmit and record the convicted person's
22 location data. If the convicted person enters a court-defined



1 geographic exclusion zone, the convicted person's location data
2 may be transmitted to the protected party and to the police
3 through any appropriate means, including the telephone, an
4 electronic beeper, or a paging device. The global positioning
5 satellite tracking device and its tracking shall be administered
6 by the court. If a court finds that the convicted person has
7 entered a court-defined geographic exclusion zone, the court
8 shall revoke the probation and the convicted person shall be
9 fined, imprisoned, or both, as provided in this subsection.
10 Based on the convicted person's ability to pay, the court may
11 also order the convicted person to pay the monthly costs or
12 portion thereof for monitoring by the global positioning
13 satellite tracking system."

14 SECTION 3. The judiciary shall implement the provisions
15 relating to global positioning satellite tracking devices under
16 sections 1 and 2 of this Act within one year of the effective
17 date of this Act.

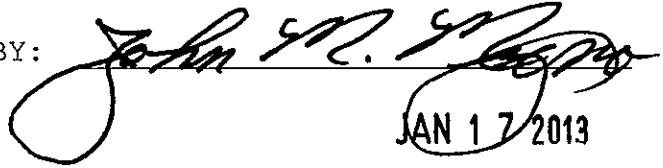
18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2013;
2 provided that on July 1, 2015, this Act shall be repealed and
3 sections 586-4(e) and 586-11(a), Hawaii Revised Statutes, shall
4 be reenacted in the form in which they read on the day before
5 the effective date of this Act.

6

INTRODUCED BY: 
JAN 17 2013

H.B. NO. 249

Report Title:

Domestic Abuse; Protective Order Violations; Electronic Monitoring

Description:

Authorizes, as a condition of probation, electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order. Effective 7/1/13. Sunsets 7/1/15.

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

