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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       SECTION 1. The legislature finds that victims of domestic  
2 violence are in constant danger of death or physical harm. The  
3 legislature further finds that the danger faced by these victims  
4 is exacerbated by institutional inefficiencies at the state and  
5 county levels of government. Victims typically turn to police  
6 and the courts for protection, often to seek protective orders  
7 for themselves and their children. While victims expect that  
8 protective orders will be vigorously enforced and reported  
9 violations treated with urgency, the reality is that, far too  
10 often, the system falls short and victims are left to fend for  
11 themselves. In other instances, victims who received the  
12 benefit of a no-contact order or stay-away order imposed during  
13 the pendency of a criminal case are unaware that the order  
14 expires once the criminal court's jurisdiction has ended.  
15 Giving victims no recourse but to begin anew by petitioning for  
16 a separate protective order is far from ideal; persons who have  
17 already suffered the trauma of domestic violence should not be



1 forced to undergo an additional court process simply to continue  
2 receiving the protection of the law.

3 The legislature is acutely aware that state and county  
4 government must urgently address this and other systemic  
5 problems such as lack of adequate offender accountability in  
6 order to keep victims of domestic violence meaningfully  
7 protected under the law. Failure to take action will only place  
8 victims in greater danger and raise the likelihood that a  
9 domestic violence fatality will occur.

10 The purpose of this Act is to strengthen the state and  
11 county responses to domestic violence and increase offender  
12 accountability by:

13 (1) Requiring that no-contact and stay-away orders issued  
14 in criminal cases involving abuse of a family or  
15 household member or non-physical forms of harassment  
16 of a family or household member be converted by the  
17 court to a new protective order that shall remain in  
18 effect for a fixed reasonable period as the court  
19 deems appropriate, unless the victim or witness in the  
20 case requests otherwise; provided that a hearing on  
21 the issue is held and certain requirements are met;



- 1           (2)   Amending the offense of abuse of family or household  
2               members to provide for felony, misdemeanor, and petty  
3               misdemeanor penalties;
- 4           (3)   Expanding the family court's jurisdiction over  
5               harassment cases, which is currently limited to those  
6               involving persons in current dating relationships, by  
7               including cases involving persons in former dating  
8               relationships;
- 9           (4)   Requiring formal hearings to show that any court-  
10              ordered domestic violence intervention program or  
11              parenting classes were completed within a specified  
12              time frame and requiring the imposition of the maximum  
13              term of incarceration as a penalty for failure to  
14              timely comply; provided that a hearing on the issue is  
15              held and certain requirements are met;
- 16          (5)   Providing that the family court may try cases  
17               involving non-physical forms of harassment of a family  
18               or household member, even if a case does not include a  
19               charge of abuse of a family or household member, to  
20               appropriately reflect the broader spectrum of offenses



1 committed in a domestic violence context and subject  
2 offenders to more thorough supervision; and  
3 (6) Reducing congestion in the court system caused by a  
4 backlog of jury trial cases by repealing a provision  
5 that would otherwise disqualify persons charged with  
6 the misdemeanor offense of abuse of a family or  
7 household member in the second degree from receiving a  
8 deferred acceptance of guilty or no contest plea, and  
9 specifying that the deferred acceptance shall be set  
10 aside if the defendant fails to complete a court-  
11 ordered domestic violence intervention program or  
12 parenting classes within the time frame specified by  
13 the court.

14 SECTION 2. Chapter 706, Hawaii Revised Statutes, is  
15 amended by adding a new section to part IV to be appropriately  
16 designated and to read as follows:

17 "§706- Post-conviction protective orders; defendants  
18 sentenced to imprisonment. In a case involving abuse of a  
19 family or household member under section 709-906, or involving  
20 harassment of a family or household member as defined in section  
21 709-906 and charged pursuant to section 711-1106(1)(b) through



1 (f), a no-contact or stay-away order previously imposed under  
2 section 804-7.1 or 706-624 on a defendant who is sentenced to a  
3 term of imprisonment shall be converted by the court upon the  
4 defendant's conviction in that case to a new protective order  
5 that shall remain in effect for a fixed reasonable period as the  
6 court deems appropriate, unless the victim or witness in the  
7 case requests otherwise; provided that the court, after hearing  
8 all the relevant evidence, finds that the defendant has failed  
9 to show cause why the previous order should not be converted to  
10 a new protective order and that a new protective order is  
11 necessary to prevent domestic abuse or a recurrence of abuse or  
12 harassment, as applicable; provided further that the court shall  
13 comply with the requirements of section 709-906(6). A new  
14 protective order shall be documented, filed, and enforced in the  
15 same manner as a protective order issued under chapter 586."

16 SECTION 3. Chapter 709, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19 "§709- Harassment of a family or household member;  
20 family court jurisdiction. (1) Cases involving harassment of a  
21 family or household member, as defined in section 709-906, and



1 charged pursuant to section 711-1106(1)(b) through (f) may be  
2 tried by the family court, even if no charge of abuse of a  
3 family or household member pursuant to section 709-906 resulted.

4 (2) Sentencing in harassment cases tried by the family  
5 court under subsection (1) shall be as provided in section 711-  
6 1106; provided that a defendant shall additionally be subject  
7 to:

8 (a) The requirements of section 709-906(6) with respect to  
9 completion of any available domestic violence  
10 intervention program or parenting classes and  
11 penalties for failure to complete the program or  
12 classes; and

13 (b) The requirements of section 709-906(13) with respect  
14 to a proof of compliance hearing."

15 SECTION 4. Section 571-14, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Except as provided in sections 603-21.5 and 604-8,  
18 the court shall have exclusive original jurisdiction:

19 (1) To try [any]:

20 (A) Any offense committed against a child by the  
21 child's parent or guardian or by any other person



1 having the child's legal or physical custody[~~7~~  
2 ~~and any~~];

3 (B) Any violation of section 707-726, 707-727, 709-  
4 902, 709-903, 709-903.5, 709-904, 709-905, 709-  
5 906, or 302A-1135[~~7~~]; and

6 (C) Any case involving harassment of a family or  
7 household member that meets the criteria in  
8 section 709- (1),

9 whether or not included in other provisions of this  
10 paragraph or paragraph (2);

11 (2) To try any adult charged with:

12 (A) Deserting, abandoning, or failing to provide  
13 support for any person in violation of law;

14 (B) An offense, other than a felony, against the  
15 person of the defendant's husband or wife;

16 (C) Any violation of an order issued pursuant to  
17 chapter 586; or

18 (D) Any violation of an order issued by a family  
19 court judge.



1 In any case within paragraph (1) or (2), the court, in its  
2 discretion, may waive its jurisdiction over the offense  
3 charged;

4 (3) In all proceedings under chapter 580, and in all  
5 proceedings under chapter 584;

6 (4) In proceedings under chapter 575, the Uniform  
7 Desertion and Nonsupport Act, and under chapter 576B,  
8 the Uniform Interstate Family Support Act;

9 (5) For commitment of an adult alleged to be mentally  
10 defective or mentally ill;

11 (6) In all proceedings for support between parent and  
12 child or between husband and wife;

13 (7) In all proceedings for pre-trial detention or waiver  
14 of jurisdiction over an adult who was a child at the  
15 time of an alleged criminal act as provided in section  
16 571-13 or 571-22;

17 (8) In all proceedings under chapter 586, Domestic Abuse  
18 Protective Orders; and

19 (9) For the protection of vulnerable adults under chapter  
20 346, part X.





1 In any case within paragraph (3), (4), or (6), the attorney  
2 general, through the child support enforcement agency, may  
3 exercise concurrent jurisdiction as provided in chapter 576E."

4 SECTION 5. Section 706-624, Hawaii Revised Statutes, is  
5 amended by amending subsection (2) to read as follows:

6 "(2) Discretionary conditions. The court may provide, as  
7 further conditions of a sentence of probation, to the extent  
8 that the conditions are reasonably related to the factors set  
9 forth in section 706-606 and to the extent that the conditions  
10 involve only deprivations of liberty or property as are  
11 reasonably necessary for the purposes indicated in section 706-  
12 606(2), that the defendant:

13 (a) Serve a term of imprisonment to be determined by the  
14 court at sentencing in class A felony cases under  
15 section 707-702, not exceeding two years in class A  
16 felony cases under part IV of chapter 712, not  
17 exceeding eighteen months in class B felony cases, not  
18 exceeding one year in class C felony cases, not  
19 exceeding six months in misdemeanor cases, and not  
20 exceeding five days in petty misdemeanor cases;  
21 provided that notwithstanding any other provision of



1 law, any order of imprisonment under this subsection  
2 that provides for prison work release shall require  
3 the defendant to pay thirty per cent of the  
4 defendant's gross pay earned during the prison work  
5 release period to satisfy any restitution order. The  
6 payment shall be handled by the adult probation  
7 division and shall be paid to the victim on a monthly  
8 basis;

9 (b) Perform a specified number of hours of services to the  
10 community as described in section 706-605(1)(d);

11 (c) Support the defendant's dependents and meet other  
12 family responsibilities;

13 (d) Pay a fine imposed pursuant to section 706-605(1)(b);

14 (e) Work conscientiously at suitable employment or pursue  
15 conscientiously a course of study or vocational  
16 training that will equip the defendant for suitable  
17 employment;

18 (f) Refrain from engaging in a specified occupation,  
19 business, or profession bearing a reasonably direct  
20 relationship to the conduct constituting the crime or  
21 engage in the specified occupation, business, or



1           profession only to a stated degree or under stated  
2           circumstances;

3           (g) Refrain from frequenting specified kinds of places or  
4           from associating unnecessarily with specified persons,  
5           including the victim of the crime, any witnesses,  
6           regardless of whether they actually testified in the  
7           prosecution, law enforcement officers, co-defendants,  
8           or other individuals with whom contact may adversely  
9           affect the rehabilitation or reformation of the person  
10          convicted; provided that a no-contact or stay-away  
11          order imposed pursuant to this paragraph in a case  
12          involving abuse of a family or household member under  
13          section 709-906, or involving harassment of a family  
14          or household member as defined in section 709-906 and  
15          charged pursuant to section 711-1106(1)(b) through  
16          (f), shall be converted by the court prior to the  
17          expiration of the defendant's term of supervision to a  
18          new protective order that shall remain in effect for a  
19          fixed reasonable period as the court deems  
20          appropriate, unless the victim or witness in the case  
21          requests otherwise; provided that the court, after



1       hearing all the relevant evidence, finds that the  
2       defendant has failed to show cause why the previous  
3       order should not be converted to a new protective  
4       order and that a new protective order is necessary to  
5       prevent domestic abuse or a recurrence of abuse or  
6       harassment, as applicable; provided further that the  
7       court shall comply with the requirements of section  
8       709-906(6). A new protective order shall be  
9       documented, filed, and enforced in the same manner as  
10      a protective order issued under chapter 586;

- 11       (h) Refrain from use of alcohol or any use of narcotic  
12       drugs or controlled substances without a prescription;
- 13       (i) Refrain from possessing a firearm, ammunition,  
14       destructive device, or other dangerous weapon;
- 15       (j) Undergo available medical or mental health assessment  
16       and treatment, including assessment and treatment for  
17       substance abuse dependency, and remain in a specified  
18       facility if required for that purpose;
- 19       (k) Reside in a specified place or area or refrain from  
20       residing in a specified place or area;



- 1 (l) Submit to periodic urinalysis or other similar testing  
2 procedure;
- 3 (m) Refrain from entering specified geographical areas  
4 without the court's permission;
- 5 (n) Refrain from leaving the person's dwelling place  
6 except to go to and from the person's place of  
7 employment, the office of the person's physician or  
8 dentist, the probation office, or any other location  
9 as may be approved by the person's probation officer  
10 pursuant to court order. As used in this paragraph,  
11 "dwelling place" includes the person's yard or, in the  
12 case of condominiums, the common elements;
- 13 (o) Comply with a specified curfew;
- 14 (p) Submit to monitoring by an electronic monitoring  
15 device;
- 16 (q) Submit to a search by any probation officer, with or  
17 without a warrant, of the defendant's person,  
18 residence, vehicle, or other sites or property under  
19 the defendant's control, based upon the probation  
20 officer's reasonable suspicion that illicit substances



1 or contraband may be found on the person or in the  
2 place to be searched;

3 (r) Sign a waiver of extradition and pay extradition costs  
4 as determined and ordered by the court;

5 (s) Comply with a service plan developed using current  
6 assessment tools; and

7 (t) Satisfy other reasonable conditions as the court may  
8 impose."

9 SECTION 6. Section 709-906, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§709-906 Abuse of family or household members; penalty.**

12 (1) It shall be unlawful for any person, singly or in concert,  
13 to physically abuse a family or household member or to refuse  
14 compliance with the lawful order of a [~~police~~] law enforcement  
15 officer under subsection (4). The [~~police,~~] law enforcement  
16 agency, in investigating any complaint of abuse of a family or  
17 household member, upon request, may transport the abused person  
18 to a hospital or safe shelter.

19 For the purposes of this section:

20 "Bodily injury" means physical pain, illness, or any  
21 impairment of physical condition.



1 "Business day" means any calendar day, except Saturday,  
2 Sunday, or any state holiday.

3 "Family or household member":

4 (a) Means spouses or reciprocal beneficiaries, former  
5 spouses or reciprocal beneficiaries, persons in a  
6 current or former dating relationship as defined under  
7 section 586-1, persons who have a child in common,  
8 parents, children, persons related by consanguinity,  
9 and persons jointly residing or formerly residing in  
10 the same dwelling unit; and

11 (b) Does not include those who are, or were, adult  
12 roommates or cohabitants only by virtue of an economic  
13 or contractual affiliation.

14 "In the presence of a minor" has the same meaning as in  
15 section 706-606.4.

16 (2) Any [~~police~~] law enforcement officer, with or without  
17 a warrant, may arrest a person if the officer has [~~reasonable~~  
18 ~~grounds~~] probable cause to believe that the person is physically  
19 abusing, or has physically abused, a family or household member  
20 and that the person arrested is guilty thereof.



1 (3) A [~~police~~] law enforcement officer who has a  
2 reasonable [~~grounds to believe~~] suspicion that the person is  
3 physically abusing, or has physically abused, a family or  
4 household member shall prepare a written report.

5 (4) Any [~~police~~] law enforcement officer, with or without  
6 a warrant, shall take the following course of action, regardless  
7 of whether the physical abuse or harm occurred in the officer's  
8 presence:

9 (a) The [~~police~~] law enforcement officer shall make  
10 reasonable inquiry of the family or household member  
11 upon whom the officer [~~believes~~] reasonably suspects  
12 physical abuse or harm has been inflicted and other  
13 witnesses as there may be;

14 (b) If the person who the [~~police~~] law enforcement officer  
15 reasonably [~~believes~~] suspects to have inflicted the  
16 abuse or created an imminent danger that abuse will be  
17 inflicted is eighteen years of age or older, the  
18 [~~police~~] law enforcement officer lawfully shall order  
19 the person to leave the premises for a period of  
20 separation, during which time the person shall not  
21 initiate any contact [~~, either by telephone or in~~]





1 ~~person,~~] with the family or household member[+] by  
2 telephone, by using electronic technology as defined  
3 in section 710-1000, or in person; provided that the  
4 person is allowed to enter the premises with [~~police~~]  
5 a law enforcement escort to collect any necessary  
6 personal effects. The period of separation shall  
7 commence when the order is issued and shall expire at  
8 6:00 p.m. on the second business day following the day  
9 the order was issued; provided that the day the order  
10 is issued shall not be included in the computation of  
11 the two business days;

12 (c) If the person who the [~~police~~] law enforcement officer  
13 reasonably [~~believes~~] suspects to have inflicted the  
14 abuse or created an imminent danger that abuse will be  
15 inflicted is under the age of eighteen, the [~~police~~]  
16 law enforcement officer may order the person to leave  
17 the premises for a period of separation, during which  
18 time the person shall not initiate any contact with  
19 the family or household member by telephone, by using  
20 electronic technology as defined in section 710-1000,  
21 or in person; provided that the person is allowed to



1 enter the premises with [~~police~~] a law enforcement  
2 escort to collect any necessary personal effects. The  
3 period of separation shall commence when the order is  
4 issued and shall expire at 6:00 p.m. on the second  
5 business day following the day the order was issued;  
6 provided that the day the order is issued shall not be  
7 included in the computation of the two business days.  
8 The order of separation may be amended at any time by  
9 a judge of the family court. In determining whether  
10 to order a person under the age of eighteen to leave  
11 the premises, the [~~police~~] law enforcement officer may  
12 consider the following factors:

- 13 (i) Age of the person;
- 14 (ii) Relationship between the person and the family or  
15 household member [~~upon whom~~] who the [~~police~~] law  
16 enforcement officer reasonably [~~believes the~~  
17 ~~abuse~~] suspects has been [~~inflicted,~~] abused or  
18 is in imminent danger of being abused; and
- 19 (iii) Ability and willingness of the parent, guardian,  
20 or other authorized adult to maintain custody and  
21 control over the person;



1 (d) All persons who are ordered to leave as stated [~~above~~]  
2 under paragraphs (b) and (c) shall be given a written  
3 warning citation stating the date, time, and location  
4 of the warning and stating the penalties for violating  
5 the warning. A copy of the warning citation shall be  
6 retained by the [~~police~~] law enforcement officer and  
7 attached to a written report which shall be submitted  
8 in all cases. A third copy of the warning citation  
9 shall be given to the abused person;

10 (e) If the person so ordered refuses to comply with the  
11 order to leave the premises or returns to the premises  
12 before the expiration of the period of separation, or  
13 if the person so ordered initiates any contact with  
14 the abused person, the person shall be placed under  
15 arrest for the purpose of preventing further physical  
16 abuse or harm to the family or household member; and

17 (f) The [~~police~~] law enforcement officer shall seize all  
18 firearms and ammunition that the [~~police~~] law  
19 enforcement officer [~~has reasonable grounds to~~  
20 believe] reasonably suspects were used or threatened



1 to be used in the commission of an offense under this  
2 section.

3 (5) The degrees of and penalties for the offense of abuse  
4 of a family or household member shall be as follows:

5 (a) Abuse of a family or household member [and refusal] in  
6 the first degree.

7 (i) It shall be a class C felony to intentionally or  
8 knowingly impede the normal breathing or  
9 circulation of the blood of a family or household  
10 member by applying pressure on the throat or neck  
11 of the family or household member.

12 (ii) It shall be a class C felony to intentionally,  
13 knowingly, or recklessly cause bodily injury to a  
14 family or household member in the presence of a  
15 minor when the minor is a family or household  
16 member less than fourteen years of age.

17 (b) Abuse of a family or household member in the second  
18 degree. It shall be a misdemeanor, unless otherwise  
19 specified, to intentionally, knowingly, or recklessly  
20 cause bodily injury to a family or household member or  
21 to refuse to comply with the lawful order of a



1           ~~[police]~~ law enforcement officer under subsection (4)  
2           ~~[are misdemeanors]~~ and the ~~[person]~~ defendant shall be  
3           sentenced as follows:

4       ~~[(a)]~~   (i)   For the first offense of abuse of a family or  
5                   household member in the second degree the  
6                   ~~[person]~~ defendant shall serve a minimum jail  
7                   sentence of forty-eight hours; ~~[and~~

8       ~~[(b)]~~   (ii)   For a second offense of abuse of a family or  
9                   household member in the second degree that occurs  
10                  within ~~[one year]~~ five years of the first  
11                  conviction, the ~~[person]~~ defendant shall be  
12                  termed a "repeat offender" and serve a minimum  
13                  jail sentence of thirty days~~[-]~~; and

14       (iii)   For a third or subsequent offense that occurs  
15                   within ten years of a second or subsequent  
16                   conviction, the offense shall be a class C felony  
17                   and the defendant shall serve a minimum jail  
18                   sentence of one hundred eighty days.

19           Upon conviction and sentencing of the defendant, the  
20           court shall order that the defendant immediately be  
21           incarcerated to serve the mandatory minimum sentence



1 imposed; provided that the defendant may be admitted  
2 to bail pending appeal pursuant to chapter 804. The  
3 court may stay the imposition of the sentence if  
4 special circumstances exist.

5 (c) Abuse of a family or household member in the third  
6 degree. It shall be a petty misdemeanor for a person,  
7 with intent to harass, annoy, or alarm a family or  
8 household member, to strike, shove, kick, or otherwise  
9 touch the family or household member in an offensive  
10 manner or subject the family or household member to  
11 offensive physical contact.

12 (6) Whenever a court sentences a person pursuant to  
13 subsection (5), it also shall ~~require~~:

14 (a) Require that the offender [undergo] complete within a  
15 specified time frame any available domestic violence  
16 intervention programs and, if the offense involved the  
17 presence of or abuse of a minor, any available  
18 parenting classes ordered by the court. The court  
19 shall amend the defendant's sentence to the maximum  
20 term of incarceration and, if applicable, set aside a



1 deferred acceptance of guilty plea or nolo contendere  
2 plea granted under chapter 853, if:

3 (i) The defendant fails to complete the domestic  
4 violence intervention program or parenting  
5 classes, if applicable; provided that after  
6 hearing all the relevant evidence, the court  
7 finds that the defendant has failed to show good  
8 cause why the defendant has not timely completed  
9 the domestic violence intervention program or  
10 parenting classes; or

11 (ii) The defendant violates any other condition of a  
12 sentence imposed pursuant to chapter 853, if  
13 applicable;

14 (b) Take into account all prior judgments and orders,  
15 whether the orders were issued by a criminal, family,  
16 or civil court, prior to entering a final judgment,  
17 sentence, or order;

18 (c) Identify the case name, case number, and court circuit  
19 and division of all prior judgments or orders it has  
20 considered under paragraph (b), and describe the



1 contents of those judgments or orders, to ensure  
2 continuity in subsequent cases and hearings;

3 (d) Refrain from imposing any condition or sentence that  
4 is inconsistent with any prior orders or judgments;  
5 and

6 (e) Ensure that any existing restraining or protective  
7 orders issued be retained or enhanced.

8 ~~[However, the]~~ The court may suspend any portion of a jail  
9 sentence, except for the mandatory sentences under subsection  
10 ~~[(5)(a) and (b)],~~ (5)(b)(i), (ii), and (iii), upon the condition  
11 that the defendant remain arrest-free and conviction-free or  
12 complete court-ordered intervention.

13 ~~[(7) For a third or any subsequent offense that occurs~~  
14 ~~within two years of a second or subsequent conviction, the~~  
15 ~~offense shall be a class C felony.~~

16 ~~(8) Where the physical abuse consists of intentionally or~~  
17 ~~knowingly impeding the normal breathing or circulation of the~~  
18 ~~blood of the family or household member by applying pressure on~~  
19 ~~the throat or the neck, abuse of a family or household member is~~  
20 ~~a class C felony.~~





~~(9) Where physical abuse occurs in the presence of a  
minor, as defined in section 706-606.4, and the minor is a  
family or household member less than fourteen years of age,  
abuse of a family or household member is a class C felony.~~

~~(10)]~~ (7) Any [police] law enforcement officer who arrests  
a person pursuant to this section shall not be subject to any  
civil or criminal liability; provided that the [police] law  
enforcement officer acts in good faith, upon reasonable belief,  
and does not exercise unreasonable force in effecting the  
arrest.

~~[(11)]~~ (8) The family or household member who has been  
physically abused or harmed by another person may petition the  
family court, with the assistance of the prosecuting attorney of  
the applicable county, for a penal summons or arrest warrant to  
issue forthwith or may file a criminal complaint through the  
prosecuting attorney of the applicable county.

~~[(12)]~~ (9) The respondent shall be taken into custody and  
brought before the family court at the first possible  
opportunity. The court may dismiss the petition or hold the  
respondent in custody, subject to bail. Where the petition is  
not dismissed, a hearing shall be set.



1       ~~[(13)]~~ (10) This section shall not operate as a bar  
2 against prosecution under any other section of this Code in lieu  
3 of prosecution for abuse of a family or household member.

4       ~~[(14)]~~ (11) It shall be the duty of the prosecuting  
5 attorney of the applicable county to assist any victim under  
6 this section in the preparation of the penal summons or arrest  
7 warrant.

8       ~~[(15)]~~ (12) This section shall not preclude the physically  
9 abused or harmed family or household member from pursuing any  
10 other remedy under law or in equity.

11       ~~[(16)]~~ (13) ~~[When a person is]~~ A defendant ordered by the  
12 court to ~~[undergo any]~~ complete a domestic violence intervention  
13 ~~[that person]~~ program or parenting classes under subsection (6)  
14 shall provide adequate proof of compliance with the court's  
15 order. The court shall order a subsequent hearing at which the  
16 ~~[person]~~ defendant is required to make an appearance, on a date  
17 certain, to determine whether the ~~[person]~~ defendant has  
18 satisfactorily completed the ordered domestic violence  
19 intervention[-] program or parenting classes within the time  
20 frame specified by the court under subsection (6). The court  
21 may waive the subsequent hearing and appearance where a court



1 officer has established that the [~~person~~] defendant has  
2 completed the intervention ordered by the court."

3 SECTION 7. Section 804-7.1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§804-7.1 Conditions of release on bail, recognizance, or  
6 supervised release. Upon a showing that there exists a danger  
7 that the defendant will commit a serious crime or will seek to  
8 intimidate witnesses, or will otherwise unlawfully interfere  
9 with the orderly administration of justice, the judicial officer  
10 named in section 804-5 may deny the defendant's release on bail,  
11 recognizance, or supervised release.

12 Upon the defendant's release on bail, recognizance, or  
13 supervised release, however, the court may enter an order:

14 (1) Prohibiting the defendant from approaching or  
15 communicating with particular persons or classes of  
16 persons, except that no such order should be deemed to  
17 prohibit any lawful and ethical activity of  
18 defendant's counsel;

19 (2) Prohibiting the defendant from going to certain  
20 described geographical areas or premises;



- 1           (3) Prohibiting the defendant from possessing any  
2           dangerous weapon, engaging in certain described  
3           activities, or indulging in intoxicating liquors or  
4           certain drugs;
- 5           (4) Requiring the defendant to report regularly to and  
6           remain under the supervision of an officer of the  
7           court;
- 8           (5) Requiring the defendant to maintain employment, or, if  
9           unemployed, to actively seek employment, or attend an  
10          educational or vocational institution;
- 11          (6) Requiring the defendant to comply with a specified  
12          curfew;
- 13          (7) Requiring the defendant to seek and maintain mental  
14          health treatment or testing, including treatment for  
15          drug or alcohol dependency, or to remain in a  
16          specified institution for that purpose;
- 17          (8) Requiring the defendant to remain in the jurisdiction  
18          of the judicial circuit in which the charges are  
19          pending unless approval is obtained from a court of  
20          competent jurisdiction to leave the jurisdiction of  
21          the court;



(9) Requiring the defendant to satisfy any other condition reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person or community; or

(10) Imposing any combination of conditions listed above.

The judicial officer may revoke a defendant's bail upon proof that the defendant has breached any of the conditions imposed.

Where the court prohibits a defendant from approaching or communicating with a particular person or classes of persons under paragraph (1) or from going to certain described geographical areas or premises under paragraph (2), the resulting no-contact or stay-away order shall be documented, filed, and enforced in the same manner as a protective order issued under chapter 586."

SECTION 8. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply when:

(1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;

(2) The offense charged is:



1 (A) A felony that involves the intentional, knowing,  
2 or reckless bodily injury, substantial bodily  
3 injury, or serious bodily injury of another  
4 person; or

5 (B) A misdemeanor or petty misdemeanor that carries a  
6 mandatory minimum sentence and that involves the  
7 intentional, knowing, or reckless bodily injury,  
8 substantial bodily injury, or serious bodily  
9 injury of another person;

10 provided that the prohibition in this paragraph shall  
11 not apply to the misdemeanor offense of abuse of a  
12 family or household member in the second degree  
13 pursuant to section 709-906(5)(b) when the defendant  
14 has no prior conviction, or has not been previously  
15 granted deferred acceptance of guilty plea or nolo  
16 contendere plea status, for any offense under section  
17 709-906;

18 (3) The offense charged involves a conspiracy or  
19 solicitation to intentionally, knowingly, or  
20 recklessly kill another person or to cause serious  
21 bodily injury to another person;



- 1 (4) The offense charged is a class A felony;
- 2 (5) The offense charged is nonprobationable;
- 3 (6) The defendant has been convicted of any offense
- 4 defined as a felony by the Hawaii Penal Code or has
- 5 been convicted for any conduct that if perpetrated in
- 6 this State would be punishable as a felony;
- 7 (7) The defendant is found to be a law violator or
- 8 delinquent child for the commission of any offense
- 9 defined as a felony by the Hawaii Penal Code or for
- 10 any conduct that if perpetrated in this State would
- 11 constitute a felony;
- 12 (8) The defendant has a prior conviction for a felony
- 13 committed in any state, federal, or foreign
- 14 jurisdiction;
- 15 (9) A firearm was used in the commission of the offense
- 16 charged;
- 17 (10) The defendant is charged with the distribution of a
- 18 dangerous, harmful, or detrimental drug to a minor;
- 19 (11) The defendant has been charged with a felony offense
- 20 and has been previously granted deferred acceptance of
- 21 guilty plea or no contest plea for a prior offense,



1           regardless of whether the period of deferral has  
2           already expired;

3       (12) The defendant has been charged with a misdemeanor  
4           offense and has been previously granted deferred  
5           acceptance of guilty plea or no contest plea for a  
6           prior felony, misdemeanor, or petty misdemeanor for  
7           which the period of deferral has not yet expired;

8       (13) The offense charged is:

9           (A) Escape in the first degree;

10          (B) Escape in the second degree;

11          (C) Promoting prison contraband in the first degree;

12          (D) Promoting prison contraband in the second degree;

13          (E) Bail jumping in the first degree;

14          (F) Bail jumping in the second degree;

15          (G) Bribery;

16          (H) Bribery of or by a witness;

17          (I) Intimidating a witness;

18          (J) Bribery of or by a juror;

19          (K) Intimidating a juror;

20          (L) Jury tampering;

21          (M) Promoting prostitution;





- 1 (N) Abuse of family or household member[+] in the  
2 first degree or third degree;
- 3 (O) Sexual assault in the second degree;
- 4 (P) Sexual assault in the third degree;
- 5 (Q) A violation of an order issued pursuant to  
6 chapter 586;
- 7 (R) Promoting child abuse in the second degree;
- 8 (S) Promoting child abuse in the third degree;
- 9 (T) Electronic enticement of a child in the first  
10 degree;
- 11 (U) Electronic enticement of a child in the second  
12 degree;
- 13 (V) Prostitution pursuant to section 712-1200(1)(b);
- 14 (W) Street solicitation of prostitution under section  
15 712-1207(1)(b);
- 16 (X) Solicitation of prostitution near schools or  
17 public parks under section 712-1209;
- 18 (Y) Habitual solicitation of prostitution under  
19 section 712-1209.5; or
- 20 (Z) Solicitation of a minor for prostitution under  
21 section 712-1209.1;



1 (14) The defendant has been charged with:

2 (A) Knowingly or intentionally falsifying any report  
3 required under chapter 11, part XIII with the  
4 intent to circumvent the law or deceive the  
5 campaign spending commission; or

6 (B) Violating section 11-352 or 11-353; or

7 (15) The defendant holds a commercial driver's license and  
8 has been charged with violating a traffic control law,  
9 other than a parking law, in connection with the  
10 operation of any type of motor vehicle."

11 SECTION 9. The judiciary shall adopt rules no later than  
12 January 1, 2019, to effectuate the purposes of this Act.

13 SECTION 10. This Act does not affect rights and duties  
14 that matured, penalties that were incurred, and proceedings that  
15 were begun before its effective date.

16 SECTION 11. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



1       SECTION 12. The revisor of statutes shall insert the  
2 appropriate number with respect to the new act referenced in  
3 section 8 of this Act.

4       SECTION 13. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 14. This Act shall take effect on January 1, 2019.



**Report Title:**

Abuse of Family or Household Members; Penalties; Degrees of Offense; Protective Orders; Enforcement; Family Court; Jurisdiction

**Description:**

Amends the offense of abuse of family or household members to provide for felony, misdemeanor, and petty misdemeanor penalties. Expands the family court's jurisdiction over cases involving harassment of a family or household member. Allows the granting of a deferred acceptance of guilty or no contest plea in cases involving misdemeanor abuse of a family or household member in the second degree. Requires that no-contact and stay-away orders issued in criminal cases involving abuse of a family or household member or non-physical forms of harassment of a family or household member be converted by the court to a new protective order that shall remain in effect for a fixed reasonable period as the court deems appropriate, unless the victim or witness requests otherwise; provided that a hearing on the issue is held and certain requirements are met. Takes effect on 1/1/2019. (SD1)

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

