

JAN 15 2025

A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

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 shall be
7 ordered by the court to complete an assessment at any available
8 domestic violence program and shall complete a domestic violence
9 intervention or anger management course as determined by the
10 domestic violence program. The court additionally shall
11 sentence a person convicted under this section as follows:

12 (1) Except as provided in paragraph (2), for a first
13 conviction for a violation of the temporary
14 restraining order, the person shall serve a mandatory
15 minimum jail sentence of [~~forty-eight hours~~] fifteen
16 days and be fined no less than [~~\$150~~] \$300 nor more
17 than \$500;



- 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~~] thirty days
- 18 and be fined no less than [~~\$150~~] \$350 nor more than
- 19 \$600; and
- 20 (3) For the second and any subsequent conviction for a
- 21 violation of the temporary restraining order, the



1 person shall serve a mandatory minimum jail sentence
2 of [~~thirty~~] forty-five days and be fined no less than
3 [~~\$250~~] \$500 nor more than \$1,000;

4 provided that the court shall not sentence a defendant to pay a
5 fine [~~unless~~] if, after conducting a financial review, the court
6 determines the defendant is or will be [~~able~~] unable to pay the
7 fine.

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

14 The court may suspend any jail sentence, except for the
15 mandatory sentences under paragraphs (1), (2), and (3) upon
16 condition that the defendant remain alcohol- and drug-free,
17 conviction-free, [~~or~~] and complete court-ordered assessments or
18 intervention. Nothing in this section shall be construed as
19 limiting the discretion of the judge to impose additional
20 sanctions authorized in sentencing for a misdemeanor."



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

3 "(a) Whenever an order for protection is granted pursuant
4 to this chapter, a respondent or person to be restrained who
5 knowingly or intentionally violates the order for protection
6 shall be guilty of a misdemeanor. A person convicted under this
7 section shall be ordered by the court to complete an assessment
8 at any available domestic violence program and shall complete a
9 domestic violence intervention or anger management course as
10 determined by the domestic violence program. The court
11 additionally shall sentence a person convicted under this
12 section as follows:

13 (1) For a first conviction for violation of the order for
14 protection[+

15 ~~(A) That is in the nature of non-domestic abuse, the~~
16 ~~person may be sentenced to a jail sentence of~~
17 ~~forty-eight hours and be fined no more than \$150,~~
18 ~~or~~

19 ~~(B) That is in the nature of domestic abuse], the~~
20 person shall be sentenced to a mandatory minimum
21 jail sentence of no less than [~~forty-eight hours~~]



1 thirty days and be fined no less than [~~\$150~~] \$300
2 nor more than \$500;

3 (2) For [a] the second and any subsequent conviction for
4 violation of the order for 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 no less than~~
10 ~~forty-eight hours and be fined no more than \$250;~~
11 ~~(B) That is in the nature of domestic abuse, and]~~
12 that occurs after a first conviction for
13 violation of the same order [~~that was in the~~
14 ~~nature of domestic abuse,~~] or conviction for a
15 violation of the temporary restraining order as
16 defined in section 586-4(e), the person shall be
17 sentenced to a mandatory minimum jail sentence of
18 no less than [~~thirty~~] forty-five days and be
19 fined no less than [~~\$250~~] \$500 nor more than
20 \$1,000;

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 no less than~~
6 ~~forty-eight hours and be fined no more than \$250,~~
7 ~~or~~
8 ~~(D) That is in the nature of domestic abuse, and~~
9 ~~occurs after a first conviction for violation of~~
10 ~~the same order that is in the nature of non-~~
11 ~~domestic abuse, the person shall be sentenced to~~
12 ~~a mandatory minimum jail sentence of no less than~~
13 ~~forty-eight hours and be fined no more than \$150,~~
14 ~~and~~
15 ~~(3) For any subsequent violation that occurs after a~~
16 ~~second conviction for violation of the same order for~~
17 ~~protection, 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 more~~
20 ~~than \$1,000;]~~



1 provided that the court shall not sentence a defendant to pay a
2 fine [~~unless~~] if, after conducting a financial review, the court
3 determines the defendant is or will be [~~able~~] unable to pay the
4 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 subparagraphs
12 (1) (A) and (2) (C), upon condition that the defendant remain
13 alcohol- and drug-free, conviction-free, [~~or~~] and complete
14 court-ordered assessments or intervention. Nothing in this
15 section shall be construed as limiting the discretion of the
16 judge to impose additional sanctions authorized in sentencing
17 for a misdemeanor offense. All remedies for the enforcement of
18 judgments shall apply to this chapter."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.

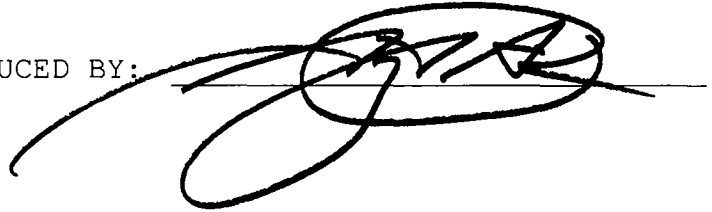


1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right, positioned over a horizontal line.

S.B. NO. 295

Report Title:

Temporary Restraining Order; Order for Protection; Penalties

Amends:

Increases the penalties imposed on individuals convicted for violation of a temporary restraining order and order for protection. Clarifies that the court shall not sentence a defendant to pay a fine for violating a temporary restraining order or order for protection if, after conducting a financial review, the court determines the defendant is or will be unable to pay the fine. Specifies that the court may suspend certain jail sentence for violation of a temporary restraining order or order for protection upon condition that the defendant remain alcohol- and drug-free, conviction-free, and complete court-ordered assessments or intervention.

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

