

JAN 25 2023

A BILL FOR AN ACT

RELATING TO ANGER MANAGEMENT.

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
7 undergo domestic violence intervention at any available domestic
8 violence program as ordered by the court[-], unless diverted to
9 anger management counseling based on an assessment conducted by
10 a domestic violence intervention service provider, in which case
11 the person shall complete anger management counseling. The
12 court additionally shall sentence a person convicted under this
13 section as follows:

14 (1) Except as provided in paragraph (2), for a first
15 conviction for a violation of the temporary
16 restraining order, the person shall serve a mandatory
17 minimum jail sentence of forty-eight hours and be



1 fined not less than \$150 nor more than \$500; provided
2 that the court shall not sentence a defendant to pay a
3 fine unless the defendant is or will be able to pay
4 the fine;

5 (2) For a first conviction for a violation of the
6 temporary restraining order, if the person has a prior
7 conviction for any of the following felonies:

8 (A) Section 707-701 relating to murder in the first
9 degree;

10 (B) Section 707-701.5 relating to murder in the
11 second degree;

12 (C) Section 707-710 relating to assault in the first
13 degree;

14 (D) Section 707-711 relating to assault in the second
15 degree;

16 (E) Section 707-720 relating to kidnapping;

17 (F) Section 707-721 relating to unlawful imprisonment
18 in the first degree;

19 (G) Section 707-730 relating to sexual assault in the
20 first degree;



- 1 (H) Section 707-731 relating to sexual assault in the
- 2 second degree;
- 3 (I) Section 707-732 relating to sexual assault in the
- 4 third degree;
- 5 (J) Section 707-733.6 relating to continuous sexual
- 6 assault of a minor under the age of fourteen
- 7 years;
- 8 (K) Section 707-750 relating to promoting child abuse
- 9 in the first degree;
- 10 (L) Section 708-810 relating to burglary in the first
- 11 degree;
- 12 (M) Section 708-811 relating to burglary in the
- 13 second degree;
- 14 (N) Section 709-906 relating to abuse of family or
- 15 household members; or
- 16 (O) Section 711-1106.4 relating to aggravated
- 17 harassment by stalking;
- 18 and if any of these offenses has been committed
- 19 against a family or household member as defined in
- 20 section 586-1, the person shall serve a mandatory
- 21 minimum term of imprisonment of fifteen days and be



1 fined not less than \$150 nor more than \$600; provided
2 that the court shall not sentence a defendant to pay a
3 fine unless the defendant is or will be able to pay
4 the fine; and

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

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

18 The court may suspend any jail sentence, except for the
19 mandatory sentences under paragraphs (1), (2), and (3) upon
20 condition that the defendant remain alcohol and drug-free,
21 conviction-free, or complete court-ordered assessments or



1 intervention. Nothing in this section shall be construed as
2 limiting the discretion of the judge to impose additional
3 sanctions authorized in sentencing for a misdemeanor."

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

6 "(a) Whenever an order for protection is granted pursuant
7 to this chapter, a respondent or person to be restrained who
8 knowingly or intentionally violates the order for protection is
9 guilty of a misdemeanor. A person convicted under this section
10 shall undergo domestic violence intervention at any available
11 domestic violence program as ordered by the court[-], unless
12 diverted to anger management counseling based on an assessment
13 conducted by a domestic violence intervention service provider,
14 in which case the person shall complete anger management
15 counseling. The court additionally shall sentence a person
16 convicted under this section as follows:

17 (1) For a first conviction for violation of the order for
18 protection:

19 (A) That is in the nature of non-domestic abuse, the
20 person may be sentenced to a jail sentence of
21 forty-eight hours and be fined not more than



1 \$150; provided that the court shall not sentence
2 a defendant to pay a fine unless the defendant is
3 or will be able to pay the fine; or

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

10 (C) That is in the nature of non-domestic abuse, and
11 occurs after a first conviction for violation of
12 the same order that was in the nature of domestic
13 abuse, the person shall be sentenced to a
14 mandatory minimum jail sentence of not less than
15 forty-eight hours and be fined not more than
16 \$250; 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; or

19 (D) That is in the nature of domestic abuse, and
20 occurs after a first conviction for violation of
21 the same order that is in the nature of



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

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

15 Upon conviction and sentencing of the defendant, the court
16 shall order that the defendant immediately be incarcerated to
17 serve the mandatory minimum sentence imposed; provided that the
18 defendant may be admitted to bail pending appeal pursuant to
19 chapter 804. The court may stay the imposition of the sentence
20 if special circumstances exist.



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

9 SECTION 3. Section 709-906, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (7) to read:

12 "(7) Whenever a court sentences a person or grants a
13 motion for deferral pursuant to subsections (5) and (6), it also
14 shall require that the offender complete within a specified time
15 frame any available domestic violence intervention programs,
16 unless diverted to anger management counseling based on an
17 assessment conducted by a domestic violence intervention service
18 provider, in which case the person shall complete anger
19 management counseling, and, if the offense involved the presence
20 of or abuse of a minor, any available parenting classes ordered
21 by the court. The court shall revoke the defendant's probation



1 or set aside the defendant's deferred acceptance of guilty plea
2 and enter an adjudication of guilt, if applicable, and sentence
3 or resentence the defendant to the maximum term of incarceration
4 if:

5 (a) The defendant fails to complete, within the specified
6 time frame, any domestic violence intervention
7 programs, anger management counseling, or parenting
8 classes ordered by the court; or

9 (b) The defendant violates any other term or condition of
10 the defendant's probation or deferral imposed by the
11 court;

12 provided that, after a hearing on an order to show cause, the
13 court finds that the defendant has failed to show good cause why
14 the defendant has not timely completed the domestic violence
15 intervention programs, anger management counseling, or parenting
16 classes, if applicable, or why the defendant violated any other
17 term or condition of the defendant's sentence. However, the
18 court may suspend any portion of a jail sentence, except for the
19 mandatory sentences under subsection (5)(a) and (b), upon the
20 condition that the defendant remain arrest-free and conviction-
21 free or complete court-ordered intervention."



1 2. By amending subsection (17) to read:

2 "(17) When a person is ordered by the court to complete
3 any domestic violence intervention programs, anger management
4 counseling, or parenting classes, that person shall provide
5 adequate proof of compliance with the court's order. The court
6 shall order a subsequent hearing at which the person is required
7 to make an appearance, on a date certain, to determine whether
8 the person has completed the ordered domestic violence
9 intervention programs or parenting classes. The court may waive
10 the subsequent hearing and appearance where a court officer has
11 established that the person has completed the intervention
12 ordered by the court."

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval;
19 provided that the amendments made to section 709-906, Hawaii
20 Revised Statutes, by section 3 of this Act shall not be repealed
21 when that section is reenacted on June 30, 2026, pursuant to:



S.B. NO. 1604

- 1 (1) Section 15 of Act 19, Session Laws of Hawaii 2020; and
2 (2) Section 4 of Act 238, Session Laws of Hawaii 2021.

3

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a horizontal line and a small flourish.

S.B. NO. 1604

Report Title:

Domestic Violence Intervention; Anger Management Counseling;
Criminal Penalties

Description:

Authorizes certain criminal offenders to undergo anger management counseling in lieu of domestic violence intervention as part of their sentences.

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

