

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1       SECTION 1. This Act shall be known as the "Protect Victims  
2 of Domestic Violence Act."

3       SECTION 2. Section 707-701, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5       "(1) A person commits the offense of murder in the first  
6 degree if the person intentionally or knowingly causes the death  
7 of:

8       (a) More than one person in the same or separate incident;

9       (b) A law enforcement officer, judge, or prosecutor  
10       arising out of the performance of official duties;

11       (c) A person known by the defendant to be a witness in a  
12       criminal prosecution and the killing is related to the  
13       person's status as a witness;

14       (d) A person by a hired killer, in which event both the  
15       person hired and the person responsible for hiring the  
16       killer shall be punished under this section; [or]

17       (e) A person while the defendant was imprisoned[-];

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- 2        (f) A person who the defendant has been restrained, by  
3        order of any court, including an ex parte order, from  
4        contacting, threatening, or physically abusing  
5        pursuant to chapter 586; or
- 6        (g) A person who is being protected by a police officer  
7        ordering the defendant to leave the premises of that  
8        protected person pursuant to section 709-906(4),  
9        during the effective period of that order."

10        SECTION 3. Section 707-701.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (1) to read as follows:

12        "(1) A person commits the offense of murder in the second  
13 degree if:

14        (a) Except as provided in section 707-701, [a person  
15        commits the offense of murder in the second degree if]  
16        the person intentionally or knowingly causes the death  
17        of another person[-]; or

18        (b) The person recklessly causes the death of:

19        (i) A person who the defendant has been restrained,  
20        by order of any court, including an ex parte  
21        order, from contacting, threatening, or  
22        physically abusing pursuant to chapter 586; or

1           (ii) A person who is being protected by a police  
2                   officer ordering the defendant to leave the  
3                   premises of that protected person pursuant to  
4                   section 709-906(4), during the effective period  
5                   of that order."

6           SECTION 4. Section 707-711, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8           "(1) A person commits the offense of assault in the second  
9 degree if:

- 10           (a) The person intentionally or knowingly causes  
11                   substantial bodily injury to another;  
12           (b) The person recklessly causes serious or substantial  
13                   bodily injury to another;  
14           (c) The person intentionally or knowingly causes bodily  
15                   injury to a correctional worker, as defined in section  
16                   710-1031(2), who is engaged in the performance of duty  
17                   or who is within a correctional facility;  
18           (d) The person intentionally or knowingly causes bodily  
19                   injury to another with a dangerous instrument;  
20           (e) The person intentionally or knowingly causes bodily  
21                   injury to an educational worker who is engaged in the  
22                   performance of duty or who is within an educational

1 facility. For the purposes of this paragraph,  
2 "educational worker" means: any administrator,  
3 specialist, counselor, teacher, or employee of the  
4 department of education or an employee of a charter  
5 school; a person who is a volunteer, as defined in  
6 section 90-1, in a school program, activity, or  
7 function that is established, sanctioned, or approved  
8 by the department of education; or a person hired by  
9 the department of education on a contractual basis and  
10 engaged in carrying out an educational function;

11 (f) The person intentionally or knowingly causes bodily  
12 injury to any emergency medical services personnel who  
13 is engaged in the performance of duty. For the  
14 purposes of this paragraph, "emergency medical  
15 services personnel" shall have the same meaning as in  
16 section 321-222; [~~or~~]

17 (g) The person intentionally or knowingly causes bodily  
18 injury to a person employed at a state-operated or  
19 -contracted mental health facility. For the purposes  
20 of this paragraph, "a person employed at a state-  
21 operated or -contracted mental health facility"  
22 includes health care professionals as defined in

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section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility[-]; or

(h) The person intentionally, knowingly, or recklessly causes bodily injury to:

(i) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or

(ii) A person who is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order."

SECTION 5. Section 707-716 Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:

(a) By threatening another person on more than one occasion for the same or a similar purpose;

(b) By threats made in a common scheme against different persons;

(c) Against a public servant arising out of the performance of the public servant's official duties. For the purposes of this paragraph, "public servant" includes but is not limited to an educational worker. "Educational worker" has the same meaning as defined in section 707-711;

(d) Against any emergency medical services personnel who is engaged in the performance of duty. For purposes of this paragraph, "emergency medical services personnel" shall have the same meaning as in section 321-222; [or]

(e) With the use of a dangerous instrument~~[-]~~; or

(f) By threatening:

(i) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or

(ii) A person who is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to

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1                    section 709-906(4), during the effective period  
2                    of that order."

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

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

6  
7                    INTRODUCED BY: \_\_\_\_\_

8                    BY REQUEST

**Report Title:**

Penal Code; Domestic Violence Victim Protection

**Description:**

To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.



JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

MEANS: Amend sections 707-701(1), 707-701.5(1), 707-711(1), and 707-716(1), Hawaii Revised Statutes.

JUSTIFICATION: Victims of domestic violence often endure extended periods of mental abuse, intimidation, harassment, terrorization, and physical violence before they reach out for help. It can take a great deal of courage, strength and desperation to seek the help of the police, the court system, and others. And often, even with intervention by the police and judges, the abuse and violence do not end. Current laws do not provide adequate deterrent. This bill is intended to do that.

This bill, the "Protect Victims of Domestic Violence Act," amends the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree to include conduct committed against victims who the courts and police are attempting to keep safe with protective orders. It makes clear that crimes against these victims are very serious. It is intended to provide a greater deterrent to such violence against a particularly vulnerable class of victims in a high risk situation. When these victims cry for help, they should be able to get the protection that they are seeking and be safe from their abusers.

Impact on the public: Victims of domestic violence are more likely to seek help from the police and the courts and actually get that help, if the abusers are deterred from violating protective orders for fear of harsh criminal prosecution.

Impact on the department and other agencies: Hopefully, more victims seeking protection of the police and courts; and there will be fewer crimes of domestic violence against those victims.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.