## A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

| 1  | SECTI                 | ON 1. Section 709-906, Hawaii Revised Statutes, is     |
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| 2  | amended by            | amending subsection (4) to read as follows:            |
| 3  | " (4)                 | Any police officer, with or without a warrant, [may]   |
| 4  | <u>shall</u> take     | the following course of action [where the officer has  |
| 5  | <del>reasonable</del> | grounds to believe that there was physical abuse or    |
| 6  | harm infli            | cted by one person upon a family or household member], |
| 7  | regardless            | of whether the physical abuse or harm occurred in the  |
| 8  | officer's             | presence:  |
| 9  | (a)                   | The police officer [may] shall make reasonable inquiry |
| 10 |                       | of the family or household member upon whom the        |
| 11 |                       | officer believes physical abuse or harm has been       |
| 12 |                       | inflicted and other witnesses as there may be;         |
| 13 | (b)                   | [Where the police officer has reasonable grounds to    |
| 14 |                       | believe that there is probable danger of further       |
| 15 |                       | physical abuse or harm being inflicted by one person   |
| 16 |                       | upon a family or household member, the] The police     |
| 17 |                       | officer lawfully shall order the person to leave the   |
| 18 |                       | premises for a period of separation of forty-eight     |

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| 1  |     | hours, during which time the person shall not initiate |
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| 2  |     | any contact, either by telephone or in person, with    |
| 3  |     | the family or household member; provided that the      |
| 4  |     | person is allowed to enter the premises with police    |
| 5  |     | escort to collect any necessary personal effects;      |
| 6  | (c) | [Where the police officer makes the finding referred   |
| 7  |     | to in paragraph (b) and Mhen the incident occurs       |
| 8  |     | after 12:00 p.m. on any Friday, or on any Saturday,    |
| 9  |     | Sunday, or legal holiday, the order to leave the       |
| 10 |     | premises and to initiate no further contact shall      |
| 11 |     | commence immediately and be in full force, but the     |
| 12 |     | forty-eight hour period shall be enlarged and extended |
| 13 |     | until 4:30 p.m. on the first day following the weekend |
| 14 |     | or legal holiday;                                      |
| 15 | (d) | All persons who are ordered to leave as stated above   |
| 16 |     | shall be given a written warning citation stating the  |
| 17 |     | date, time, and location of the warning and stating    |
| 18 |     | the penalties for violating the warning. A copy of     |
| 19 |     | the warning citation shall be retained by the police   |
| 20 |     | officer and attached to a written report which shall   |
| 21 |     | be submitted in all cases. A third copy of the         |
| 22 |     | warning citation shall be given to the abused person;  |

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| 1  | (e)       | If the person so ordered refuses to comply with the     |
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| 2  |           | order to leave the premises or returns to the premises  |
| 3  |           | before the expiration of the period of separation, or   |
| 4  |           | if the person so ordered initiates any contact with     |
| 5  |           | the abused person, the person shall be placed under     |
| 6  |           | arrest for the purpose of preventing further physical   |
| 7  |           | abuse or harm to the family or household member; and    |
| 8  | (f)       | The police officer shall seize all firearms and         |
| 9  |           | ammunition that the police officer has reasonable       |
| 10 |           | grounds to believe were used or threatened to be used   |
| 11 |           | in the commission of an offense under this section."    |
| 12 | SECT      | ION 2. This Act does not affect rights and duties that  |
| 13 | matured,  | penalties that were incurred, and proceedings that were |
| 14 | begun bef | ore its effective date.                                 |
| 15 | SECT      | ION 3. Statutory material to be repealed is bracketed   |
| 16 | and stric | ken. New statutory material is underscored.             |
| 17 | SECT      | ION 4. This Act shall take effect upon its approval.    |
| 18 |           | Mas Hea   |

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#### Report Title:

Penal Code; Abuse of Family or Household Member; Mandatory Reasonable Inquiry; Mandatory No-Contact Period

### Description:

Requires a police officer to make reasonable inquiry of the victimized family member and witnesses, if applicable, and order a person to leave the premises for a no-contact period of forty-eight hours.

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