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# A BILL FOR AN ACT

RELATING TO PROOF OF DOMESTIC OR SEXUAL VIOLENCE VICTIM STATUS.

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

1           SECTION 1. The legislature finds that certain laws of the  
2 State were enacted to assist victims of domestic and sexual  
3 violence. For example, certain provisions in the Hawaii Revised  
4 Statutes address early termination of a shared cell phone  
5 contract or rental agreement by victims. However, the  
6 legislature also finds that when victims attempt to obtain  
7 assistance under these laws, they must show proof of their  
8 victim status. This is complicated by the fact that the types  
9 of documents accepted as proof of domestic or sexual violence  
10 victim status vary among the different laws, even though the  
11 actual substance of the requirements is similar. As a result,  
12 victims may be discouraged from trying to seek assistance under  
13 these laws.

14           The purpose of this Act is to make consistent the types of  
15 documents accepted as proof of domestic or sexual violence  
16 victim status.



1 SECTION 2. Section 269-16.93, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) All wireless telecommunications service providers  
4 shall release, without charge, penalty, or fee, any victim of  
5 domestic abuse from a shared or family wireless service contract  
6 involving the victim's abuser; provided that the victim submits  
7 an opt-out request in writing and with evidence of domestic  
8 abuse as documented by any of the following items:

9 ~~[-(1) Valid police report documenting an instance or series  
10 of instances of domestic abuse;~~

11 ~~-(2) Order for protection granted pursuant to chapter 586,  
12 or~~

13 ~~-(3) Signed affidavit from a licensed medical or mental  
14 health care provider, employee of a court acting  
15 within the scope of their employment, or social  
16 worker.]~~

17 (1) Certified or exemplified restraining orders,  
18 injunctions against harassment, and documents from  
19 criminal cases;



- 1        (2) Documentation from a victim services organization or
- 2        domestic abuse program, agency, or facility, including
- 3        a shelter or safe house for domestic abuse victims; or
- 4        (3) Documentation from a medical professional, mental
- 5        health care provider, attorney, advocate, social
- 6        worker, or member of the clergy from whom the victim
- 7        has sought assistance in dealing with the alleged
- 8        domestic abuse."

9        SECTION 3. Section 378-2, Hawaii Revised Statutes, is  
 10 amended by amending subsection (b) to read as follows:

11        "(b) For purposes of subsection (a) (1):

12        (1) An employer may verify that an employee is a victim of  
 13 domestic or sexual violence by requesting that the  
 14 employee provide:

15        [~~(A) A signed written statement from a person listed~~  
 16        ~~below from whom the employee or the employee's~~  
 17        ~~minor child has sought assistance in relation to~~  
 18        ~~the domestic or sexual violence:~~

19        ~~(i) An employee, agent, or volunteer of a victim~~  
 20        ~~services organization;~~

21        ~~(ii) The employee's attorney or advocate;~~



- 1           ~~(iii) The attorney or advocate of the employee's~~
- 2                   ~~minor child;~~
- 3           ~~(iv) A medical or other health care professional;~~
- 4                   ~~or~~
- 5           ~~(v) A member of the clergy; or~~
- 6           ~~(B) A police or court record supporting the~~
- 7                   ~~occurrence of the domestic or sexual violence;~~
- 8                   ~~and]~~
- 9           (A) Certified or exemplified restraining orders,
- 10                   injunctions against harassment, and documents
- 11                   from criminal cases;
- 12           (B) Documentation from a victim services organization
- 13                   or domestic or sexual violence program, agency,
- 14                   or facility, including a shelter or safe house
- 15                   for victims of domestic or sexual violence; or
- 16           (C) Documentation from a medical professional, mental
- 17                   health care provider, attorney, advocate, social
- 18                   worker, or member of the clergy from whom the
- 19                   employee or the employee's minor child has sought
- 20                   assistance in relation to the domestic or sexual
- 21                   violence; and



1           (2) An employer may verify an employee's status as a  
2           domestic or sexual violence victim not more than once  
3           every six months following the date the employer:  
4           (A) Was provided notice by the employee of the  
5           employee's status as a domestic or sexual  
6           violence victim;  
7           (B) Has actual knowledge of the employee's status as  
8           a domestic or sexual violence victim; or  
9           (C) Received verification that the employee is a  
10          domestic or sexual violence victim;  
11          provided that where the employee provides verification  
12          in the form of a protective order related to the  
13          domestic or sexual violence with an expiration date,  
14          the employer may not request any further form of  
15          verification of the employee's status as a domestic or  
16          sexual violence victim until the date of the  
17          expiration or any extensions of the protective order,  
18          whichever is later."

19          SECTION 4. Section 378-72, Hawaii Revised Statutes, is  
20          amended by amending subsection (d) to read as follows:

1           "(d) Where an employee has taken not more than five  
2 calendar days of leave for non-medical reasons, the employee  
3 shall provide certification to the employer in the form of a  
4 signed statement within a reasonable period after the employer's  
5 request, that the employee or the employee's minor child is a  
6 victim of domestic or sexual violence and the leave is for one  
7 of the purposes enumerated in subsection (a). If the leave  
8 exceeds five days per calendar year, then the certification  
9 shall be provided by one of the following methods:

10           ~~[(1) A signed written statement from an employee, agent, or~~  
11           ~~volunteer of a victim services organization, from the~~  
12           ~~employee's attorney or advocate, from a minor child's~~  
13           ~~attorney or advocate, or a medical or other~~  
14           ~~professional from whom the employee or the employee's~~  
15           ~~minor child has sought assistance related to the~~  
16           ~~domestic or sexual violence; or~~

17           ~~(2) A police or court record related to the domestic or~~  
18           ~~sexual violence.]~~

19           (1) Certified or exemplified restraining orders,  
20           injunctions against harassment, and documents from  
21           criminal cases;



- 1           (2) Documentation from a victim services organization or  
2           domestic or sexual violence program, agency, or  
3           facility, including a shelter or safe house for  
4           victims of domestic or sexual violence; or  
5           (3) Documentation from a medical professional, mental  
6           health care provider, attorney, advocate, social  
7           worker, or member of the clergy from whom the employee  
8           or the employee's minor child has sought assistance in  
9           relation to the domestic or sexual violence."

10           SECTION 5. Section 383-7.6, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12           "(b) The department may request as reasonable and  
13 confidential documentation under subsection (a)(1) the following  
14 evidence:

- 15           (1) A notarized written statement of the individual  
16           attesting to the status of the individual or the  
17           individual's minor child as a victim of domestic or  
18           sexual violence and explaining how continued  
19           employment creates an unreasonable risk of further  
20           violence;



- 1 (2) A signed written statement from:
- 2 [~~(A) An employee, agent, or volunteer of a victim~~
- 3 ~~services organization;~~
- 4 ~~(B) The individual's attorney or advocate;~~
- 5 ~~(C) A minor child's attorney or advocate; or~~
- 6 ~~(D) A medical or other professional from whom the~~
- 7 ~~individual or the individual's minor child has~~
- 8 ~~sought assistance related to the domestic or~~
- 9 ~~sexual violence,]~~
- 10 (A) A victim services organization or domestic or
- 11 sexual violence program, agency, or facility,
- 12 including a shelter or safe house for victims of
- 13 domestic or sexual violence; or
- 14 (B) A medical professional, mental health care
- 15 provider, attorney, advocate, social worker, or
- 16 member of the clergy from whom the individual or
- 17 the individual's minor child has sought
- 18 assistance in relation to the domestic or sexual
- 19 violence,





1           attesting to the domestic or sexual violence and  
2           explaining how the continued employment creates an  
3           unreasonable risk of further violence; or  
4           (3) ~~[A police or court record]~~ Certified or exemplified  
5           restraining orders, injunctions against harassment,  
6           and documents from criminal cases suggesting or  
7           demonstrating that the continued employment may cause  
8           an unreasonable risk of further violence."

9           SECTION 6. Section 383-30.5, Hawaii Revised Statutes, is  
10          amended by amending subsection (a) to read as follows:

11           "(a) In applying the provisions of section 383-30(1), an  
12          individual who has established eligibility based on full-time  
13          employment may be found to have good cause for voluntarily  
14          separating from subsequent part-time employment based on any of  
15          the following conditions:

- 16           (1) Loss of full-time work with a regular employer made it  
17           economically unfeasible to continue part-time  
18           employment;
- 19           (2) The part-time employment was outside the individual's  
20           customary occupation and would not have been  
21           considered suitable work at the time the individual



1           accepted part-time employment. In determining whether  
2           an individual is reasonably fitted for a particular  
3           job, the department shall consider:

4           (A) The degree of risk involved to the individual's  
5           health, safety, and morals;

6           (B) The individual's physical fitness;

7           (C) The individual's prior training;

8           (D) The individual's experience;

9           (E) The individual's prior earnings;

10          (F) The length of the individual's unemployment;

11          (G) The individual's prospects for obtaining work in  
12          the individual's customary occupation;

13          (H) The distance of available work from the  
14          individual's residence; and

15          (I) The individual's prospects for obtaining local  
16          work.

17           As used in this paragraph, "suitable work" means work  
18           in the individual's usual occupation or work for which  
19           the individual is reasonably fitted;

20          (3) The employer failed to provide sufficient advance  
21          notice of a work schedule change;



- 1           (4) There was a work schedule conflict with other  
2                   concurrent part-time or full-time employment;
- 3           (5) A real, substantial, or compelling reason, or a reason  
4                   that would cause a reasonable and prudent employee,  
5                   genuinely and sincerely desirous of maintaining  
6                   employment, to take similar action and to try  
7                   reasonable alternatives before terminating the  
8                   employment relationship;
- 9           (6) Change in working conditions and the change is  
10                   prejudicial or detrimental to the health, safety, or  
11                   morals of the employee;
- 12           (7) Change in terms and conditions of employment,  
13                   including change in rate of pay, position or grade,  
14                   duties, days of work, or hours of work;
- 15           (8) Discrimination that violates federal or state laws  
16                   regarding equal employment opportunity practices;
- 17           (9) Change in the employee's marital or domestic status;
- 18           (10) Acceptance of a definite, firm offer made of other  
19                   employment where the offer is subsequently withdrawn  
20                   and the former employer refuses to rehire the  
21                   employee;

- 1 (11) Retirement under a mandatory requirement imposed by a  
2 collective bargaining agreement;
- 3 (12) Evidence that the employee was a victim of domestic or  
4 sexual violence, including any circumstance that  
5 causes a reasonable employee to believe that other  
6 available alternatives, such as a leave of absence, a  
7 transfer of jobs, or an alternate work schedule, would  
8 not be sufficient to guarantee the safety of the  
9 employee and that separation from employment was  
10 necessary to address the resulting physical and  
11 psychological effects, to seek or reside in an  
12 emergency shelter, or to avoid future domestic or  
13 sexual violence. Evidence includes [~~police records,~~  
14 ~~court records, statements from the individual, a~~  
15 ~~volunteer of a victim services organization, the~~  
16 ~~employee's attorney or advocate, a member of the~~  
17 ~~clergy, medical, or other professional from whom the~~  
18 ~~employee has sought assistance related to the domestic~~  
19 ~~or sexual violence, or other corroborating evidence.]:~~



1           (A) Certified or exemplified restraining orders,  
2           injunctions against harassment, and documents  
3           from criminal cases;

4           (B) Documentation from a victim services organization  
5           or domestic or sexual violence program, agency,  
6           or facility, including a shelter or safe house  
7           for victims of domestic or sexual violence;

8           (C) Documentation from a medical professional, mental  
9           health care provider, attorney, advocate, social  
10           worker, or member of the clergy from whom the  
11           employee or the employee's minor child has sought  
12           assistance in relation to the domestic or sexual  
13           violence; or

14           (D) Statements from the individual, or other  
15           corroborating evidence.

16           As used in this paragraph, "domestic or sexual  
17           violence" includes domestic abuse, sexual assault, or  
18           stalking; or

19           (13) Any other factor relevant to a determination of good  
20           cause."



1 SECTION 7. Section 521-80, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) A tenant may terminate a rental agreement of a term  
4 of one year or less without penalty or fees for early  
5 termination or liability for future rent if the tenant or an  
6 immediate family member of the tenant residing at the dwelling  
7 unit has been the victim of domestic violence during the ninety  
8 days preceding the date the notice of early termination is  
9 provided to the landlord. The notice shall be given at least  
10 fourteen days prior to the early termination date specified in  
11 the notice, which shall be no more than one hundred four days  
12 from the date of the most recent act of domestic violence. The  
13 notice shall be accompanied by one of the following documents:

- 14 ~~[-(1) A copy of a valid order of protection issued by a~~  
15 ~~court of any state to the tenant or immediate family~~  
16 ~~member of the tenant as a result of the tenant or the~~  
17 ~~immediate family member of the tenant having been a~~  
18 ~~victim of domestic violence;~~
- 19 ~~-(2) A copy of a police report filed with an agency of any~~  
20 ~~state that states that the tenant or immediate family~~



1 ~~member of the tenant was a victim of domestic~~  
2 ~~violence; or~~

3 ~~(3) A copy of the conviction of a person for an act of~~  
4 ~~domestic violence against the tenant or immediate~~  
5 ~~family member of the tenant.]~~

6 (1) Certified or exemplified restraining orders,  
7 injunctions against harassment, and documents from  
8 criminal cases;

9 (2) Documentation from a victim services organization or  
10 domestic violence program, agency, or facility,  
11 including a shelter or safe house for victims of  
12 domestic violence; or

13 (3) Documentation from a medical professional, mental  
14 health care provider, attorney, advocate, social  
15 worker, or member of the clergy from whom the victim  
16 has sought assistance in relation to the domestic  
17 violence.

18 The tenant shall also provide to the landlord a written  
19 statement, which describes that the tenant reasonably believes  
20 that the person who committed the domestic violence knows the  
21 address or location where the tenant or immediate family member



1 of the tenant resides, unless the person who committed the  
2 domestic violence resides in the same dwelling unit."

3 SECTION 8. Section 801G-3, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The application shall be as prescribed by the program  
6 director and shall contain the following:

7 (1) The primary applicant's name;

8 (2) A statement by the primary applicant that the primary  
9 applicant is a victim of domestic abuse, a sexual  
10 offense, or stalking and that the primary applicant  
11 fears for the primary applicant's safety;

12 (3) Evidence that the primary applicant is a victim of  
13 domestic abuse, a sexual offense, or stalking,  
14 including any of the following:

15 (A) Records or files of a court or government agency  
16 including but not limited to police reports,  
17 valid restraining orders, injunctions against  
18 harassment, and documents from criminal cases;

19 (B) Documentation from a domestic abuse program,  
20 agency, or facility including ~~[but not limited~~





- 1           ~~to~~ a ~~women's~~ shelter or safe house ~~[r]~~ for  
2           domestic abuse victims;
- 3           (C) Documentation from a sexual assault program; ~~[or]~~
- 4           (D) Documentation from a medical professional, mental  
5           health care provider, ~~[or other class of~~  
6           ~~professionals designated by the program director]~~  
7           attorney, advocate, social worker, or member of  
8           the clergy from whom the primary applicant has  
9           sought assistance in dealing with the alleged  
10          domestic abuse, sexual offense, or stalking; or
- 11          (E) Documentation from a victim services  
12          organization;
- 13          (4) A statement by the primary applicant that disclosure  
14          of the primary applicant's actual address will  
15          endanger the primary applicant's safety;
- 16          (5) A statement by the primary applicant that the primary  
17          applicant has confidentially relocated to an address  
18          in the State or will relocate to an address in the  
19          State within thirty days of the date of application  
20          and will not disclose the location to assailants or  
21          known potential assailants;



- 1 (6) The primary applicant's written consent that the  
2 program shall serve as the agent for the primary  
3 applicant for purposes of service of process and  
4 receiving mail;
- 5 (7) The mailing address and telephone number where the  
6 primary applicant may be contacted by the program;
- 7 (8) The actual address of the primary applicant;
- 8 (9) A statement as to whether there is any existing court  
9 order or court action involving the primary applicant  
10 or an individual identified in paragraph (10) related  
11 to dissolution of marriage proceedings, child support,  
12 or the allocation of parental responsibilities or  
13 parenting time, including the court that issued the  
14 order or has jurisdiction over the action;
- 15 (10) The name of any person who resides with the primary  
16 applicant who may apply as a secondary applicant  
17 pursuant to section 801G-4 to ensure the safety of the  
18 primary applicant;
- 19 (11) The primary applicant's sworn statement that the  
20 information contained in the application is true;



1       (12) The application assistant's statement that the  
2            application assistant has met with and discussed the  
3            application with the primary applicant and that the  
4            application assistant recommends that the primary  
5            applicant be assigned a substitute address; and

6       (13) The date and signature of the primary applicant, the  
7            application assistant, and, if applicable, the primary  
8            applicant's parent or guardian."

9       SECTION 9. Statutory material to be repealed is bracketed  
10   and stricken. New statutory material is underscored.

11       SECTION 10. This Act shall take effect on December 31,  
12   2059.



**Report Title:**

Domestic Violence; Sexual Violence; Victims; Proof of Status

**Description:**

Makes consistent the types of documents accepted as proof of domestic or sexual violence victim status. Effective 12/31/2059. (HD2)

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

