

JAN 17 2020

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) Records or files of a court or government agency
18 including police reports, valid restraining orders,
19 injunctions against harassment, and documents from
20 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;~~



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- 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) Records or files of a court or government agency
- 10 including police reports, valid restraining
- 11 orders, injunctions against harassment, and
- 12 documents from criminal cases;
- 13 (B) Documentation from a victim services organization
- 14 or domestic or sexual violence program, agency,
- 15 or facility, including a shelter or safe house
- 16 for victims of domestic or sexual violence; or
- 17 (C) Documentation from a medical professional, mental
- 18 health care provider, attorney, advocate, social
- 19 worker, or member of the clergy from whom the
- 20 employee or the employee's minor child has sought



1 assistance in relation to the domestic or sexual
2 violence; and

3 (2) An employer may verify an employee's status as a
4 domestic or sexual violence victim not more than once
5 every six months following the date the employer:

6 (A) Was provided notice by the employee of the
7 employee's status as a domestic or sexual
8 violence victim;

9 (B) Has actual knowledge of the employee's status as
10 a domestic or sexual violence victim; or

11 (C) Received verification that the employee is a
12 domestic or sexual violence victim;

13 provided that where the employee provides verification
14 in the form of a protective order related to the
15 domestic or sexual violence with an expiration date,
16 the employer may not request any further form of
17 verification of the employee's status as a domestic or
18 sexual violence victim until the date of the
19 expiration or any extensions of the protective order,
20 whichever is later."



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

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

- 12 ~~[(1) A signed written statement from an employee, agent, or~~
13 ~~volunteer of a victim services organization, from the~~
14 ~~employee's attorney or advocate, from a minor child's~~
15 ~~attorney or advocate, or a medical or other~~
16 ~~professional from whom the employee or the employee's~~
17 ~~minor child has sought assistance related to the~~
18 ~~domestic or sexual violence; or~~
19 ~~(2) A police or court record related to the domestic or~~
20 ~~sexual violence.]~~



- 1 (1) Records or files of a court or government agency
- 2 including police reports, valid restraining orders,
- 3 injunctions against harassment, and documents from
- 4 criminal cases;
- 5 (2) Documentation from a victim services organization or
- 6 domestic or sexual violence program, agency, or
- 7 facility, including a shelter or safe house for
- 8 victims of domestic or sexual violence; or
- 9 (3) Documentation from a medical professional, mental
- 10 health care provider, attorney, advocate, social
- 11 worker, or member of the clergy from whom the employee
- 12 or the employee's minor child has sought assistance in
- 13 relation to the domestic or sexual violence."

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

16 "(b) The department may request as reasonable and
 17 confidential documentation under subsection (a)(1) the following
 18 evidence:

- 19 (1) A notarized written statement of the individual
- 20 attesting to the status of the individual or the
- 21 individual's minor child as a victim of domestic or



1 sexual violence and explaining how continued
2 employment creates an unreasonable risk of further
3 violence;

4 (2) A signed written statement from:

5 (A) ~~[An employee, agent, or volunteer of a victim~~
6 ~~services organization;]~~ A victim services
7 organization or domestic or sexual violence
8 program, agency, or facility, including a shelter
9 or safe house for victims of domestic or sexual
10 violence; or

11 (B) ~~[The individual's attorney or advocate;]~~ A
12 medical professional, mental health care
13 provider, attorney, advocate, social worker, or
14 member of the clergy from whom the individual or
15 the individual's minor child has sought
16 assistance in relation to the domestic or sexual
17 violence,

18 ~~[(C) A minor child's attorney or advocate; or~~

19 ~~(D) A medical or other professional from whom the~~
20 ~~individual or the individual's minor child has~~



1 ~~sought assistance related to the domestic or~~
2 ~~sexual violence,]~~

3 attesting to the domestic or sexual violence and
4 explaining how the continued employment creates an
5 unreasonable risk of further violence; or

6 (3) ~~[A police or court record]~~ Records or files of a court
7 or government agency including police reports, valid
8 restraining orders, injunctions against harassment,
9 and documents from criminal cases, suggesting or
10 demonstrating that the continued employment may cause
11 an unreasonable risk of further violence."

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

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

19 (1) Loss of full-time work with a regular employer made it
20 economically unfeasible to continue part-time
21 employment;



1 (2) The part-time employment was outside the individual's
2 customary occupation and would not have been
3 considered suitable work at the time the individual
4 accepted part-time employment. In determining whether
5 an individual is reasonably fitted for a particular
6 job, the department shall consider:

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

9 (B) The individual's physical fitness;

10 (C) The individual's prior training;

11 (D) The individual's experience;

12 (E) The individual's prior earnings;

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

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

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

18 (I) The individual's prospects for obtaining local
19 work.



1 As used in this paragraph, "suitable work" means work
2 in the individual's usual occupation or work for which
3 the individual is reasonably fitted;

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

6 (4) There was a work schedule conflict with other
7 concurrent part-time or full-time employment;

8 (5) A real, substantial, or compelling reason, or a reason
9 that would cause a reasonable and prudent employee,
10 genuinely and sincerely desirous of maintaining
11 employment, to take similar action and to try
12 reasonable alternatives before terminating the
13 employment relationship;

14 (6) Change in working conditions and the change is
15 prejudicial or detrimental to the health, safety, or
16 morals of the employee;

17 (7) Change in terms and conditions of employment,
18 including change in rate of pay, position or grade,
19 duties, days of work, or hours of work;

20 (8) Discrimination that violates federal or state laws
21 regarding equal employment opportunity practices;



- 1 (9) Change in the employee's marital or domestic status;
- 2 (10) Acceptance of a definite, firm offer made of other
- 3 employment where the offer is subsequently withdrawn
- 4 and the former employer refuses to rehire the
- 5 employee;
- 6 (11) Retirement under a mandatory requirement imposed by a
- 7 collective bargaining agreement;
- 8 (12) Evidence that the employee was a victim of domestic or
- 9 sexual violence, including any circumstance that
- 10 causes a reasonable employee to believe that other
- 11 available alternatives, such as a leave of absence, a
- 12 transfer of jobs, or an alternate work schedule, would
- 13 not be sufficient to guarantee the safety of the
- 14 employee and that separation from employment was
- 15 necessary to address the resulting physical and
- 16 psychological effects, to seek or reside in an
- 17 emergency shelter, or to avoid future domestic or
- 18 sexual violence. Evidence includes [~~police records,~~
- 19 ~~court records, statements from the individual, a~~
- 20 ~~volunteer of a victim services organization, the~~
- 21 ~~employee's attorney or advocate, a member of the~~



1 ~~clergy, medical, or other professional from whom the~~
2 ~~employee has sought assistance related to the domestic~~
3 ~~or sexual violence, or other corroborating evidence.]:~~

4 (A) Records or files of a court or government agency
5 including police reports, valid restraining
6 orders, injunctions against harassment, and
7 documents from criminal cases;

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

12 (C) Documentation from a medical professional, mental
13 health care provider, attorney, advocate, social
14 worker, or member of the clergy from whom the
15 employee has sought assistance in relation to the
16 domestic or sexual violence; or

17 (D) Statements from the individual, or other
18 corroborating evidence.

19 As used in this paragraph, "domestic or sexual
20 violence" includes domestic abuse, sexual assault, or
21 stalking; or



1 (13) Any other factor relevant to a determination of good
2 cause."

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

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

16 ~~[(1) A copy of a valid order of protection issued by a~~
17 ~~court of any state to the tenant or immediate family~~
18 ~~member of the tenant as a result of the tenant or the~~
19 ~~immediate family member of the tenant having been a~~
20 ~~victim of domestic violence;~~



1 ~~(2) A copy of a police report filed with an agency of any~~
2 ~~state that states that the tenant or immediate family~~
3 ~~member of the tenant was a victim of domestic~~
4 ~~violence; or~~

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

8 (1) Records or files of a court or government agency
9 including police reports, valid restraining orders,
10 injunctions against harassment, and documents from
11 criminal cases;

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

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



1 The tenant shall also provide to the landlord a written
2 statement, which describes that the tenant reasonably believes
3 that the person who committed the domestic violence knows the
4 address or location where the tenant or immediate family member
5 of the tenant resides, unless the person who committed the
6 domestic violence resides in the same dwelling unit."

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

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

11 (1) The primary applicant's name;

12 (2) A statement by the primary applicant that the primary
13 applicant is a victim of domestic abuse, a sexual
14 offense, or stalking and that the primary applicant
15 fears for the primary applicant's safety;

16 (3) Evidence that the primary applicant is a victim of
17 domestic abuse, a sexual offense, or stalking,
18 including any of the following:

19 (A) Records or files of a court or government agency
20 including but not limited to police reports,



- 1 valid restraining orders, injunctions against
2 harassment, and documents from criminal cases;
- 3 (B) Documentation from a domestic abuse program,
4 agency, or facility including [~~but not limited~~
5 ~~to~~] a [~~women's~~] shelter or safe house[~~+~~] for
6 domestic abuse victims;
- 7 (C) Documentation from a sexual assault program; [~~or~~]
- 8 (D) Documentation from a medical professional, mental
9 health care provider, [~~or other class of~~
10 ~~professionals designated by the program director]~~
11 attorney, advocate, social worker, or member of
12 the clergy from whom the primary applicant has
13 sought assistance in dealing with the alleged
14 domestic abuse, sexual offense, or stalking; or
- 15 (E) Documentation from a victim services
16 organization;
- 17 (4) A statement by the primary applicant that disclosure
18 of the primary applicant's actual address will
19 endanger the primary applicant's safety;
- 20 (5) A statement by the primary applicant that the primary
21 applicant has confidentially relocated to an address



1 in the State or will relocate to an address in the
2 State within thirty days of the date of application
3 and will not disclose the location to assailants or
4 known potential assailants;

5 (6) The primary applicant's written consent that the
6 program shall serve as the agent for the primary
7 applicant for purposes of service of process and
8 receiving mail;

9 (7) The mailing address and telephone number where the
10 primary applicant may be contacted by the program;

11 (8) The actual address of the primary applicant;

12 (9) A statement as to whether there is any existing court
13 order or court action involving the primary applicant
14 or an individual identified in paragraph (10) related
15 to dissolution of marriage proceedings, child support,
16 or the allocation of parental responsibilities or
17 parenting time, including the court that issued the
18 order or has jurisdiction over the action;

19 (10) The name of any person who resides with the primary
20 applicant who may apply as a secondary applicant



1 pursuant to section 801G-4 to ensure the safety of the
2 primary applicant;

3 (11) The primary applicant's sworn statement that the
4 information contained in the application is true;

5 (12) The application assistant's statement that the
6 application assistant has met with and discussed the
7 application with the primary applicant and that the
8 application assistant recommends that the primary
9 applicant be assigned a substitute address; and

10 (13) The date and signature of the primary applicant, the
11 application assistant, and, if applicable, the primary
12 applicant's parent or guardian."

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


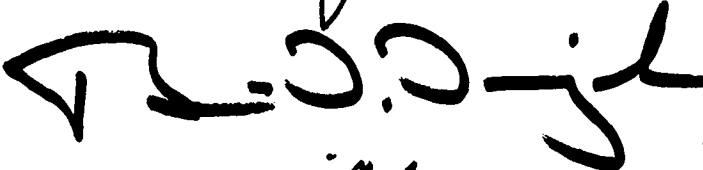
15 SECTION 10. This Act shall take effect upon its approval.

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INTRODUCED BY: Amor Mercado Ko

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S.B. NO. 2306

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.

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

