
A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 PART I

2 SECTION 1. The purpose of this part is to establish a
3 five-year pilot project to strengthen state and county responses
4 to domestic violence and increase offender accountability by:

5 (1) Establishing a petty misdemeanor offense of abuse of
6 family or household members and penalties;

7 (2) Reducing congestion in the court system caused by a
8 backlog of jury trial cases by permitting persons
9 charged with a petty misdemeanor or misdemeanor
10 offense of abuse of a family or household member to
11 enter a deferred acceptance of guilty plea under
12 certain conditions, and specifying that the deferred
13 acceptance shall be set aside if the defendant fails
14 to complete any court-ordered domestic violence
15 intervention programs or parenting classes within the
16 time frame specified by the court; and



1 (3) Requiring data collection and reporting to determine
2 the effectiveness of the pilot project by the
3 judiciary on the number of cases filed with the
4 judiciary and the outcome of each case relating to
5 domestic violence.

6 SECTION 2. Section 709-906, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§709-906 Abuse of family or household members; penalty.**

9 (1) It shall be unlawful for any person, singly or in concert,
10 to physically abuse a family or household member or to refuse
11 compliance with the lawful order of a police officer under
12 subsection (4). The police, in investigating any complaint of
13 abuse of a family or household member, upon request, may
14 transport the abused person to a hospital or safe shelter.

15 ~~[For the purposes of this section:~~

16 ~~"Business day" means any calendar day, except Saturday,~~
17 ~~Sunday, or any state holiday.~~

18 ~~"Family or household member":~~

19 ~~(a) Means spouses or reciprocal beneficiaries, former~~
20 ~~spouses or reciprocal beneficiaries, persons in a~~
21 ~~dating relationship as defined under section 586-1,~~



1 ~~persons who have a child in common, parents, children,~~
2 ~~persons related by consanguinity, and persons jointly~~
3 ~~residing or formerly residing in the same dwelling~~
4 ~~unit; and~~

5 ~~(b) Does not include those who are, or were, adult~~
6 ~~roommates or cohabitants only by virtue of an economic~~
7 ~~or contractual affiliation.]~~

8 (2) Any police officer, with or without a warrant, may
9 arrest a person if the officer has reasonable grounds to believe
10 that the person is physically abusing, or has physically abused,
11 a family or household member and that the person arrested is
12 guilty thereof.

13 (3) A police officer who has reasonable grounds to believe
14 that the person is physically abusing, or has physically abused,
15 a family or household member shall prepare a written report.

16 (4) Any police officer, with or without a warrant, shall
17 take the following course of action, regardless of whether the
18 physical abuse or harm occurred in the officer's presence:

19 (a) The police officer shall make reasonable inquiry of
20 the family or household member upon whom the officer



1 believes physical abuse or harm has been inflicted and
2 other witnesses as there may be;

3 (b) If the person who the police officer reasonably
4 believes to have inflicted the abuse is eighteen years
5 of age or older, the police officer lawfully shall
6 order the person to leave the premises for a period of
7 separation, during which time the person shall not
8 initiate any contact, either by telephone or in
9 person, with the family or household member; provided
10 that the person is allowed to enter the premises with
11 police escort to collect any necessary personal
12 effects. The period of separation shall commence when
13 the order is issued and shall expire at 6:00 p.m. on
14 the second business day following the day the order
15 was issued; provided that the day the order is issued
16 shall not be included in the computation of the two
17 business days;

18 (c) If the person who the police officer reasonably
19 believes to have inflicted the abuse is under the age
20 of eighteen, the police officer may order the person
21 to leave the premises for a period of separation,



1 during which time the person shall not initiate any
2 contact with the family or household member by
3 telephone or in person; provided that the person is
4 allowed to enter the premises with police escort to
5 collect any necessary personal effects. The period of
6 separation shall commence when the order is issued and
7 shall expire at 6:00 p.m. on the second business day
8 following the day the order was issued; provided that
9 the day the order is issued shall not be included in
10 the computation of the two business days. The order
11 of separation may be amended at any time by a judge of
12 the family court. In determining whether to order a
13 person under the age of eighteen to leave the
14 premises, the police officer may consider the
15 following factors:

- 16 (i) Age of the person;
- 17 (ii) Relationship between the person and the family or
18 household member upon whom the police officer
19 reasonably believes the abuse has been inflicted;
20 and



- 1 (iii) Ability and willingness of the parent, guardian,
2 or other authorized adult to maintain custody and
3 control over the person;
- 4 (d) All persons who are ordered to leave as stated above
5 shall be given a written warning citation stating the
6 date, time, and location of the warning and stating
7 the penalties for violating the warning. A copy of
8 the warning citation shall be retained by the police
9 officer and attached to a written report which shall
10 be submitted in all cases. A third copy of the
11 warning citation shall be given to the abused person;
- 12 (e) If the person so ordered refuses to comply with the
13 order to leave the premises or returns to the premises
14 before the expiration of the period of separation, or
15 if the person so ordered initiates any contact with
16 the abused person, the person shall be placed under
17 arrest for the purpose of preventing further physical
18 abuse or harm to the family or household member; and
- 19 (f) The police officer shall seize all firearms and
20 ammunition that the police officer has reasonable



1 grounds to believe were used or threatened to be used
2 in the commission of an offense under this section.

3 (5) The penalties for the offense of abuse of a family or
4 household member shall be as follows:

5 (a) Abuse of a family or household member and refusal to
6 comply with the lawful order of a police officer under
7 subsection (4) are misdemeanors and the person shall
8 be sentenced as follows:

9 ~~[(a)]~~ (i) For the first offense the person shall serve a
10 minimum jail sentence of forty-eight hours; and

11 ~~[(b)]~~ (ii) For a second offense that occurs within one year
12 of the first conviction, the person shall be
13 termed a "repeat offender" and serve a minimum
14 jail sentence of thirty days~~[-]~~; and

15 (b) It shall be a petty misdemeanor for a person to
16 intentionally or knowingly strike, shove, kick, or
17 otherwise touch a family or household member in an
18 offensive manner or subject the family member or
19 household member to offensive physical contact and the
20 person shall be sentenced as provided in sections 706-
21 640 and 706-663.



1 Upon conviction and sentencing of the defendant, the court
2 [~~shall~~] may order that the defendant immediately be incarcerated
3 to serve the mandatory minimum sentence imposed; provided that
4 the defendant may be admitted to bail pending appeal pursuant to
5 chapter 804. The court may stay the imposition of the sentence
6 if special circumstances exist.

7 (6) Whenever a court sentences a person or grants a motion
8 for deferral pursuant to subsection (5), it also shall require
9 that the offender [~~undergo~~] complete within a specified time
10 frame any available domestic violence intervention programs and,
11 if the offense involved the presence of or abuse of a minor, any
12 available parenting classes ordered by the court. The court
13 shall revoke the defendant's probation or set aside the
14 defendant's deferred acceptance of guilty plea and enter an
15 adjudication of guilt, if applicable, and sentence or resentence
16 the defendant to the maximum term of incarceration if:

17 (a) The defendant fails to complete, within the specified
18 time frame, any domestic violence intervention
19 programs or parenting classes ordered by the court; or



1 (b) The defendant violates any other term or condition of
2 the defendant's probation or deferral imposed by the
3 court;
4 provided that, after a hearing on an order to show cause, the
5 court finds that the defendant has failed to show good cause why
6 the defendant has not timely completed the domestic violence
7 intervention programs or parenting classes, if applicable, or
8 why the defendant violated any other term or condition of the
9 defendant's sentence. However, the court may suspend any
10 portion of a jail sentence, except for the mandatory sentences
11 under subsection [~~(5)(a) and (b)~~], (5)(a)(i) and (ii), upon the
12 condition that the defendant remain arrest-free and conviction-
13 free or complete court-ordered intervention.

14 (7) For a third or any subsequent offense that occurs
15 within two years of a second or subsequent conviction, the
16 offense shall be a class C felony.

17 (8) Where the physical abuse consists of intentionally or
18 knowingly causing bodily injury by impeding the normal breathing
19 or circulation of the blood by:

20 (a) Applying pressure on the throat or the neck with any
21 part of the body or a ligature;



1 (b) Blocking the nose and mouth; or
2 (c) Applying pressure to the chest,
3 abuse of a family or household member is a class C felony;
4 provided that infliction of visible bodily injury shall not be
5 required to establish an offense under this subsection.

6 For the purposes of this subsection, "bodily injury" shall
7 have the same meaning as in section 707-700.

8 (9) Where physical abuse occurs in the presence of a
9 minor, as defined in section 706-606.4, and the minor is a
10 family or household member less than fourteen years of age,
11 abuse of a family or household member is a class C felony.

12 (10) Any police officer who arrests a person pursuant to
13 this section shall not be subject to any civil or criminal
14 liability; provided that the police officer acts in good faith,
15 upon reasonable belief, and does not exercise unreasonable force
16 in effecting the arrest.

17 (11) The family or household member who has been physically
18 abused or harmed by another person may petition the family
19 court, with the assistance of the prosecuting attorney of the
20 applicable county, for a penal summons or arrest warrant to



1 issue forthwith or may file a criminal complaint through the
2 prosecuting attorney of the applicable county.

3 (12) The respondent shall be taken into custody and
4 brought before the family court at the first possible
5 opportunity. The court may dismiss the petition or hold the
6 respondent in custody, subject to bail. Where the petition is
7 not dismissed, a hearing shall be set.

8 (13) This section shall not operate as a bar against
9 prosecution under any other section of this Code in lieu of
10 prosecution for abuse of a family or household member.

11 (14) It shall be the duty of the prosecuting attorney of
12 the applicable county to assist any victim under this section in
13 the preparation of the penal summons or arrest warrant.

14 (15) This section shall not preclude the physically abused
15 or harmed family or household member from pursuing any other
16 remedy under law or in equity.

17 (16) When a person is ordered by the court to undergo any
18 domestic violence intervention[7] programs or parenting classes,
19 that person shall provide adequate proof of compliance with the
20 court's order. The court shall order a subsequent hearing at
21 which the person is required to make an appearance, on a date



1 certain, to determine whether the person has completed the
2 ordered domestic violence intervention[-] programs or parenting
3 classes. The court may waive the subsequent hearing and
4 appearance where a court officer has established that the person
5 has completed the intervention ordered by the court.

6 (17) Notwithstanding any provision of law to the contrary,
7 the court may accept a deferred acceptance of guilty plea
8 pursuant to chapter 853 for misdemeanor or petty misdemeanor
9 offenses of abuse of a family or household member when the
10 defendant:

- 11 (a) Has no prior conviction; or
- 12 (b) Has not been previously granted deferred acceptance of
13 guilty plea status,
14 for any offense charged in family court under this section
15 regardless of the final plea.

16 (18) For the purposes of this section:
17 "Business day" means any calendar day, except Saturday,
18 Sunday, or any state holiday.

19 "Family or household member":
20 (a) Means spouses or reciprocal beneficiaries, former
21 spouses or reciprocal beneficiaries, persons in a



1 dating relationship as defined under section 586-1,
 2 persons who have a child in common, parents, children,
 3 persons related by consanguinity, and persons jointly
 4 residing or formerly residing in the same dwelling
 5 unit; and
 6 (b) Does not include those who are, or were, adult
 7 roommates or cohabitants only by virtue of an economic
 8 or contractual affiliation."

9 SECTION 3. Section 853-4, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

- 11 "(a) This chapter shall not apply when:
- 12 (1) The offense charged involves the intentional, knowing,
 13 reckless, or negligent killing of another person;
- 14 (2) The offense charged is:
- 15 (A) A felony that involves the intentional, knowing,
 16 or reckless bodily injury, substantial bodily
 17 injury, or serious bodily injury of another
 18 person; or
- 19 (B) A misdemeanor or petty misdemeanor that carries a
 20 mandatory minimum sentence and that involves the
 21 intentional, knowing, or reckless bodily injury,



1 substantial bodily injury, or serious bodily
2 injury of another person;
3 provided that the prohibition in this paragraph shall
4 not apply to offenses described in section
5 709-906(17);
6 (3) The offense charged involves a conspiracy or
7 solicitation to intentionally, knowingly, or
8 recklessly kill another person or to cause serious
9 bodily injury to another person;
10 (4) The offense charged is a class A felony;
11 (5) The offense charged is nonprobationable;
12 (6) The defendant has been convicted of any offense
13 defined as a felony by the Hawaii Penal Code or has
14 been convicted for any conduct that if perpetrated in
15 this State would be punishable as a felony;
16 (7) The defendant is found to be a law violator or
17 delinquent child for the commission of any offense
18 defined as a felony by the Hawaii Penal Code or for
19 any conduct that if perpetrated in this State would
20 constitute a felony;



- 1 (8) The defendant has a prior conviction for a felony
2 committed in any state, federal, or foreign
3 jurisdiction;
- 4 (9) A firearm was used in the commission of the offense
5 charged;
- 6 (10) The defendant is charged with the distribution of a
7 dangerous, harmful, or detrimental drug to a minor;
- 8 (11) The defendant has been charged with a felony offense
9 and has been previously granted deferred acceptance of
10 guilty plea or no contest plea for a prior offense,
11 regardless of whether the period of deferral has
12 already expired;
- 13 (12) The defendant has been charged with a misdemeanor
14 offense and has been previously granted deferred
15 acceptance of guilty plea or no contest plea for a
16 prior felony, misdemeanor, or petty misdemeanor for
17 which the period of deferral has not yet expired;
- 18 (13) The offense charged is:
- 19 (A) Escape in the first degree;
- 20 (B) Escape in the second degree;
- 21 (C) Promoting prison contraband in the first degree;



- 1 (D) Promoting prison contraband in the second degree;
- 2 (E) Bail jumping in the first degree;
- 3 (F) Bail jumping in the second degree;
- 4 (G) Bribery;
- 5 (H) Bribery of or by a witness;
- 6 (I) Intimidating a witness;
- 7 (J) Bribery of or by a juror;
- 8 (K) Intimidating a juror;
- 9 (L) Jury tampering;
- 10 (M) Promoting prostitution;
- 11 (N) Abuse of family or household member[+] except as
- 12 provided in paragraph (2) and section
- 13 709-906(17);
- 14 (O) Sexual assault in the second degree;
- 15 (P) Sexual assault in the third degree;
- 16 (Q) A violation of an order issued pursuant to
- 17 chapter 586;
- 18 (R) Promoting child abuse in the second degree;
- 19 (S) Promoting child abuse in the third degree;
- 20 (T) Electronic enticement of a child in the first
- 21 degree;



- 1 (U) Electronic enticement of a child in the second
- 2 degree;
- 3 (V) Prostitution pursuant to section 712-1200(1)(b);
- 4 (W) Street solicitation of prostitution under section
- 5 712-1207(1)(b);
- 6 (X) Solicitation of prostitution near schools or
- 7 public parks under section 712-1209;
- 8 (Y) Habitual solicitation of prostitution under
- 9 section 712-1209.5; or
- 10 (Z) Solicitation of a minor for prostitution under
- 11 section 712-1209.1;
- 12 (14) The defendant has been charged with:
- 13 (A) Knowingly or intentionally falsifying any report
- 14 required under chapter 11, part XIII with the
- 15 intent to circumvent the law or deceive the
- 16 campaign spending commission; or
- 17 (B) Violating section 11-352 or 11-353; or
- 18 (15) The defendant holds a commercial driver's license and
- 19 has been charged with violating a traffic control law,
- 20 other than a parking law, in connection with the
- 21 operation of any type of motor vehicle."



1 PART II

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

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

18 SECTION 5. Section 378-2, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

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



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

4 [~~(A) A signed written statement from a person listed~~
5 ~~below from whom the employee or the employee's~~
6 ~~minor child has sought assistance in relation to~~
7 ~~the domestic or sexual violence:~~

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

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

11 ~~(iii) The attorney or advocate of the employee's~~
12 ~~minor child;~~

13 ~~(iv) A medical or other health care professional;~~
14 ~~or~~

15 ~~(v) A member of the clergy; or~~

16 ~~(B) A police or court record supporting the~~
17 ~~occurrence of the domestic or sexual violence;~~
18 ~~and]~~

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



- 1 (B) Documentation from a victim services organization
- 2 or domestic or sexual violence program, agency,
- 3 or facility, including a shelter or safe house
- 4 for victims of domestic or sexual violence; or
- 5 (C) Documentation from a medical professional, mental
- 6 health care provider, attorney, advocate, social
- 7 worker, or member of the clergy from whom the
- 8 employee or the employee's minor child has sought
- 9 assistance in relation to the domestic or sexual
- 10 violence; and
- 11 (2) An employer may verify an employee's status as a
- 12 domestic or sexual violence victim not more than once
- 13 every six months following the date the employer:
- 14 (A) Was provided notice by the employee of the
- 15 employee's status as a domestic or sexual
- 16 violence victim;
- 17 (B) Has actual knowledge of the employee's status as
- 18 a domestic or sexual violence victim; or
- 19 (C) Received verification that the employee is a
- 20 domestic or sexual violence victim;



1 provided that where the employee provides verification
2 in the form of a protective order related to the
3 domestic or sexual violence with an expiration date,
4 the employer may not request any further form of
5 verification of the employee's status as a domestic or
6 sexual violence victim until the date of the
7 expiration or any extensions of the protective order,
8 whichever is later."

9 SECTION 6. Section 378-72, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

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

20 [~~1~~] ~~A signed written statement from an employee, agent, or~~
21 ~~volunteer of a victim services organization, from the~~



1 ~~employee's attorney or advocate, from a minor child's~~
2 ~~attorney or advocate, or a medical or other~~
3 ~~professional from whom the employee or the employee's~~
4 ~~minor child has sought assistance related to the~~
5 ~~domestic or sexual violence; or~~

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

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

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

15 (3) Documentation from a medical professional, mental
16 health care provider, attorney, advocate, social
17 worker, or member of the clergy from whom the employee
18 or the employee's minor child has sought assistance in
19 relation to the domestic or sexual violence."

20 SECTION 7. Section 383-7.6, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



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

4 (1) A notarized written statement of the individual
5 attesting to the status of the individual or the
6 individual's minor child as a victim of domestic or
7 sexual violence and explaining how continued
8 employment creates an unreasonable risk of further
9 violence;

10 (2) A signed written statement from:

- 11 ~~-(A) An employee, agent, or volunteer of a victim~~
12 ~~services organization;~~
13 ~~-(B) The individual's attorney or advocate;~~
14 ~~-(C) A minor child's attorney or advocate; or~~
15 ~~-(D) A medical or other professional from whom the~~
16 ~~individual or the individual's minor child has~~
17 ~~sought assistance related to the domestic or~~
18 ~~sexual violence,]~~

19 (A) A victim services organization or domestic or
20 sexual violence program, agency, or facility,



1 including a shelter or safe house for victims of
2 domestic or sexual violence; or
3 (B) A medical professional, mental health care
4 provider, attorney, advocate, social worker, or
5 member of the clergy from whom the individual or
6 the individual's minor child has sought
7 assistance in relation to the domestic or sexual
8 violence,

9 attesting to the domestic or sexual violence and
10 explaining how the continued employment creates an
11 unreasonable risk of further violence; or
12 (3) ~~[A police or court record]~~ Certified or exemplified
13 restraining orders, injunctions against harassment,
14 and documents from criminal cases suggesting or
15 demonstrating that the continued employment may cause
16 an unreasonable risk of further violence."

17 SECTION 8. Section 383-30.5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) In applying the provisions of section 383-30(1), an
20 individual who has established eligibility based on full-time
21 employment may be found to have good cause for voluntarily

1 separating from subsequent part-time employment based on any of
2 the following conditions:

3 (1) Loss of full-time work with a regular employer made it
4 economically unfeasible to continue part-time
5 employment;

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

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

14 (B) The individual's physical fitness;

15 (C) The individual's prior training;

16 (D) The individual's experience;

17 (E) The individual's prior earnings;

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

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



- 1 (H) The distance of available work from the
- 2 individual's residence; and
- 3 (I) The individual's prospects for obtaining local
- 4 work.
- 5 As used in this paragraph, "suitable work" means work
- 6 in the individual's usual occupation or work for which
- 7 the individual is reasonably fitted;
- 8 (3) The employer failed to provide sufficient advance
- 9 notice of a work schedule change;
- 10 (4) There was a work schedule conflict with other
- 11 concurrent part-time or full-time employment;
- 12 (5) A real, substantial, or compelling reason, or a reason
- 13 that would cause a reasonable and prudent employee,
- 14 genuinely and sincerely desirous of maintaining
- 15 employment, to take similar action and to try
- 16 reasonable alternatives before terminating the
- 17 employment relationship;
- 18 (6) Change in working conditions and the change is
- 19 prejudicial or detrimental to the health, safety, or
- 20 morals of the employee;



- 1 (7) Change in terms and conditions of employment,
2 including change in rate of pay, position or grade,
3 duties, days of work, or hours of work;
- 4 (8) Discrimination that violates federal or state laws
5 regarding equal employment opportunity practices;
- 6 (9) Change in the employee's marital or domestic status;
- 7 (10) Acceptance of a definite, firm offer made of other
8 employment where the offer is subsequently withdrawn
9 and the former employer refuses to rehire the
10 employee;
- 11 (11) Retirement under a mandatory requirement imposed by a
12 collective bargaining agreement;
- 13 (12) Evidence that the employee was a victim of domestic or
14 sexual violence, including any circumstance that
15 causes a reasonable employee to believe that other
16 available alternatives, such as a leave of absence, a
17 transfer of jobs, or an alternate work schedule, would
18 not be sufficient to guarantee the safety of the
19 employee and that separation from employment was
20 necessary to address the resulting physical and
21 psychological effects, to seek or reside in an



1 emergency shelter, or to avoid future domestic or
2 sexual violence. Evidence includes [~~police records,~~
3 ~~court records, statements from the individual, a~~
4 ~~volunteer of a victim services organization, the~~
5 ~~employee's attorney or advocate, a member of the~~
6 ~~clergy, medical, or other professional from whom the~~
7 ~~employee has sought assistance related to the domestic~~
8 ~~or sexual violence, or other corroborating evidence.]:~~

- 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;
- 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; or



1 (D) Statements from the individual, or other
2 corroborating evidence.

3 As used in this paragraph, "domestic or sexual
4 violence" includes domestic abuse, sexual assault, or
5 stalking; or

6 (13) Any other factor relevant to a determination of good
7 cause."

8 SECTION 9. Section 521-80, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

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



- 1 ~~[(1) A copy of a valid order of protection issued by a~~
2 ~~court of any state to the tenant or immediate family~~
3 ~~member of the tenant as a result of the tenant or the~~
4 ~~immediate family member of the tenant having been a~~
5 ~~victim of domestic violence;~~
- 6 ~~(2) A copy of a police report filed with an agency of any~~
7 ~~state that states that the tenant or immediate family~~
8 ~~member of the tenant was a victim of domestic~~
9 ~~violence; or~~
- 10 ~~(3) A copy of the conviction of a person for an act of~~
11 ~~domestic violence against the tenant or immediate~~
12 ~~family member of the tenant.]~~
- 13 (1) Certified or exemplified restraining orders,
14 injunctions against harassment, and documents from
15 criminal cases;
- 16 (2) Documentation from a victim services organization or
17 domestic violence program, agency, or facility,
18 including a shelter or safe house for victims of
19 domestic violence; or
- 20 (3) Documentation from a medical professional, mental
21 health care provider, attorney, advocate, social



1 worker, or member of the clergy from whom the victim
2 has sought assistance in relation to the domestic
3 violence.

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

10 SECTION 10. Section 801G-3, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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

- 14 (1) The primary applicant's name;
- 15 (2) A statement by the primary applicant that the primary
16 applicant is a victim of domestic abuse, a sexual
17 offense, or stalking and that the primary applicant
18 fears for the primary applicant's safety;
- 19 (3) Evidence that the primary applicant is a victim of
20 domestic abuse, a sexual offense, or stalking,
21 including any of the following:



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



- 1 (5) A statement by the primary applicant that the primary
2 applicant has confidentially relocated to an address
3 in the State or will relocate to an address in the
4 State within thirty days of the date of application
5 and will not disclose the location to assailants or
6 known potential assailants;
- 7 (6) The primary applicant's written consent that the
8 program shall serve as the agent for the primary
9 applicant for purposes of service of process and
10 receiving mail;
- 11 (7) The mailing address and telephone number where the
12 primary applicant may be contacted by the program;
- 13 (8) The actual address of the primary applicant;
- 14 (9) A statement as to whether there is any existing court
15 order or court action involving the primary applicant
16 or an individual identified in paragraph (10) related
17 to dissolution of marriage proceedings, child support,
18 or the allocation of parental responsibilities or
19 parenting time, including the court that issued the
20 order or has jurisdiction over the action;



1 by category; the number found not guilty; the number found
2 guilty; and other outcomes, by category; provided that in cases
3 in which an offender was required to complete a domestic
4 violence intervention programs or parenting classes, the report
5 shall include, by category, the number of cases in which the
6 program was completed or not completed and the consequences for
7 failure to complete the program.

8 PART IV

9 SECTION 12. This Act does not affect rights and duties
10 that matured, penalties that were incurred, and proceedings that
11 were begun before its effective date.

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

14 SECTION 14. This Act shall take effect on January 1, 2021;
15 provided that sections 2 and 3 shall be repealed on June 30,
16 2026; provided further that sections 709-906 and 853-4, Hawaii
17 Revised Statutes, shall be reenacted in the form in which they
18 read on the day prior to the effective date of this Act.



S.B. NO. 2638
S.D. 2
H.D. 2

Report Title:

Abuse of Family or Household Member; Petty Misdemeanor;
Penalties; Pilot Program; Domestic Violence; Sexual Violence;
Victims; Proof of Status

Description:

Part I: Establishes a petty misdemeanor offense of abuse of family or household members. Clarifies the penalties for violations. Allows a deferred acceptance of guilty plea for misdemeanor and petty misdemeanor abuse of family or household members offenses. Part II: Makes consistent the types of documents accepted as proof of domestic or sexual violence victim status. Part III: Requires the judiciary to submit annual reports on the number and outcome of abuse cases. Part I sunsets 6/30/2026. Effective 1/1/2021. (HD2)

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

