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# A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

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PART I

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

- (1) Establishing a petty misdemeanor offense of abuse of family or household members and penalties;
- (2) Reducing congestion in the court system caused by a backlog of jury trial cases by permitting persons charged with a petty misdemeanor or misdemeanor offense of abuse of a family or household member to enter a deferred acceptance of guilty plea under certain conditions, and specifying that the deferred acceptance shall be set aside if the defendant fails to complete any court-ordered domestic violence intervention programs or parenting classes within the 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 706-623, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) When the court has sentenced a defendant to be placed  
9 on probation, the period of probation shall be as follows,  
10 unless the court enters the reason therefor on the record and  
11 sentences the defendant to a shorter period of probation:

- 12 (a) Ten years upon conviction of a class A felony;
- 13 (b) Five years upon conviction of a class B or class C  
14 felony under part II, V, or VI of chapter 707, chapter  
15 709, and part I of chapter 712 and four years upon  
16 conviction of any other class B or C felony;
- 17 (c) One year upon conviction of a misdemeanor; except that  
18 upon a conviction under section 586-4, 586-11, or 709-  
19 906, the court may sentence the defendant to a period  
20 of probation not exceeding two years; or



1 (d) Six months upon conviction of a petty misdemeanor;  
 2 provided that up to one year may be imposed upon a  
 3 finding of good cause[-]; except upon a conviction  
 4 under section 709-906, the court may sentence the  
 5 defendant to a period of probation not exceeding one  
 6 year.

7 The court, on application of a probation officer, on application  
 8 of the defendant, or on its own motion, may discharge the  
 9 defendant at any time. Prior to the court granting early  
 10 discharge, the defendant's probation officer shall be required  
 11 to report to the court concerning the defendant's compliance or  
 12 non-compliance with the conditions of the defendant's probation  
 13 and the court shall afford the prosecuting attorney an  
 14 opportunity to be heard. The terms of probation provided in  
 15 this part, other than in this section, shall not apply to  
 16 sentences of probation imposed under section 706-606.3."

17 SECTION 3. Section 709-906, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 **"§709-906 Abuse of family or household members; penalty.**

20 (1) It shall be unlawful for any person, singly or in concert,  
 21 to physically abuse a family or household member or to refuse



1 compliance with the lawful order of a police officer under  
2 subsection (4). The police, in investigating any complaint of  
3 abuse of a family or household member, upon request, may  
4 transport the abused person to a hospital or safe shelter.

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

6 ~~"Business day" means any calendar day, except Saturday,~~  
7 ~~Sunday, or any state holiday.~~

8 ~~"Family or household member":~~

9 ~~(a) Means spouses or reciprocal beneficiaries, former~~  
10 ~~spouses or reciprocal beneficiaries, persons in a~~  
11 ~~dating relationship as defined under section 586-1,~~  
12 ~~persons who have a child in common, parents, children,~~  
13 ~~persons related by consanguinity, and persons jointly~~  
14 ~~residing or formerly residing in the same dwelling~~  
15 ~~unit; and~~

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

19 (2) Any police officer, with or without a warrant, may  
20 arrest a person if the officer has reasonable grounds to believe  
21 that the person is physically abusing, or has physically abused,



1 a family or household member and that the person arrested is  
2 guilty thereof.

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

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

9 (a) The police officer shall make reasonable inquiry of  
10 the family or household member upon whom the officer  
11 believes physical abuse or harm has been inflicted and  
12 other witnesses as there may be;

13 (b) If the person who the police officer reasonably  
14 believes to have inflicted the abuse is eighteen years  
15 of age or older, the police officer lawfully shall  
16 order the person to leave the premises for a period of  
17 separation, during which time the person shall not  
18 initiate any contact, either by telephone or in  
19 person, with the family or household member; provided  
20 that the person is allowed to enter the premises with  
21 police escort to collect any necessary personal



1 effects. The period of separation shall commence when  
2 the order is issued and shall expire at 6:00 p.m. on  
3 the second business day following the day the order  
4 was issued; provided that the day the order is issued  
5 shall not be included in the computation of the two  
6 business days;

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



1 the family court. In determining whether to order a  
2 person under the age of eighteen to leave the  
3 premises, the police officer may consider the  
4 following factors:

5 (i) Age of the person;  
6 (ii) Relationship between the person and the family or  
7 household member upon whom the police officer  
8 reasonably believes the abuse has been inflicted;  
9 and

10 (iii) Ability and willingness of the parent, guardian,  
11 or other authorized adult to maintain custody and  
12 control over the person;

13 (d) All persons who are ordered to leave as stated above  
14 shall be given a written warning citation stating the  
15 date, time, and location of the warning and stating  
16 the penalties for violating the warning. A copy of  
17 the warning citation shall be retained by the police  
18 officer and attached to a written report which shall  
19 be submitted in all cases. A third copy of the  
20 warning citation shall be given to the abused person;



1 (e) If the person so ordered refuses to comply with the  
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 (5) Abuse of a family or household member and refusal to  
13 comply with the lawful order of a police officer under  
14 subsection (4) are misdemeanors and the person shall be  
15 sentenced as follows:  
16 (a) For the first offense the person shall serve a minimum  
17 jail sentence of forty-eight hours; and  
18 (b) For a second offense that occurs within one year of  
19 the first conviction, the person shall be termed  
20 a "repeat offender" and serve a minimum jail  
21 sentence of thirty days.





1           (6) It shall be a petty misdemeanor for a person to  
2 intentionally or knowingly strike, shove, kick, or otherwise  
3 touch a family or household member in an offensive manner or  
4 subject the family member or household member to offensive  
5 physical contact and the person shall be sentenced as provided  
6 in sections 706-640 and 706-663.

7 Upon conviction and sentencing of the defendant, the court  
8 [~~shall~~] may order that the defendant immediately be incarcerated  
9 to serve the mandatory minimum sentence imposed; provided that  
10 the defendant may be admitted to bail pending appeal pursuant to  
11 chapter 804. The court may stay the imposition of the sentence  
12 if special circumstances exist.

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



1 and sentence or resentence the defendant to the maximum term of  
2 incarceration if:

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

6 (b) The defendant violates any other term or condition of  
7 the defendant's probation or deferral imposed by the  
8 court;

9 provided that, after a hearing on an order to show cause, the  
10 court finds that the defendant has failed to show good cause why  
11 the defendant has not timely completed the domestic violence  
12 intervention programs or parenting classes, if applicable, or  
13 why the defendant violated any other term or condition of the  
14 defendant's sentence. However, the court may suspend any  
15 portion of a jail sentence, except for the mandatory sentences  
16 under subsection (5)(a) and (b), upon the condition that the  
17 defendant remain arrest-free and conviction-free or complete  
18 court-ordered intervention.

19 ~~(7)~~ (8) For a third or any subsequent offense that  
20 occurs within two years of a second or subsequent conviction,  
21 the offense shall be a class C felony.



1           ~~[(8)]~~ (9) Where the physical abuse consists of  
2 intentionally or knowingly causing bodily injury by impeding the  
3 normal breathing or circulation of the blood by:

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

6           (b) Blocking the nose and mouth; or

7           (c) Applying pressure to the chest,

8 abuse of a family or household member is a class C felony;  
9 provided that infliction of visible bodily injury shall not be  
10 required to establish an offense under this subsection.

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

13           ~~[(9)]~~ (10) Where physical abuse occurs in the presence of  
14 a minor, as defined in section 706-606.4, and the minor is a  
15 family or household member less than fourteen years of age,  
16 abuse of a family or household member is a class C felony.

17           ~~[(10)]~~ (11) Any police officer who arrests a person  
18 pursuant to this section shall not be subject to any civil or  
19 criminal liability; provided that the police officer acts in  
20 good faith, upon reasonable belief, and does not exercise  
21 unreasonable force in effecting the arrest.



1        [~~(11)~~] (12) The family or household member who has been  
2 physically abused or harmed by another person may petition the  
3 family court, with the assistance of the prosecuting attorney of  
4 the applicable county, for a penal summons or arrest warrant to  
5 issue forthwith or may file a criminal complaint through the  
6 prosecuting attorney of the applicable county.

7        [~~(12)~~] (13) The [~~respondent~~] defendant shall be taken into  
8 custody and brought before the family court at the first  
9 possible opportunity. The court may dismiss the petition or  
10 hold the [~~respondent~~] defendant in custody, subject to bail.  
11 Where the petition is not dismissed, a hearing shall be set.

12        [~~(13)~~] (14) This section shall not operate as a bar  
13 against prosecution under any other section of this Code in lieu  
14 of prosecution for abuse of a family or household member.

15        [~~(14)~~] (15) It shall be the duty of the prosecuting  
16 attorney of the applicable county to assist any victim under  
17 this section in the preparation of the penal summons or arrest  
18 warrant.

19        [~~(15)~~] (16) This section shall not preclude the physically  
20 abused or harmed family or household member from pursuing any  
21 other remedy under law or in equity.



1           ~~[(16)]~~ (17) When a person is ordered by the court to  
 2   ~~[undergo]~~ complete any domestic violence intervention~~[r]~~  
 3   programs or parenting classes, that person shall provide  
 4   adequate proof of compliance with the court's order. The court  
 5   shall order a subsequent hearing at which the person is required  
 6   to make an appearance, on a date certain, to determine whether  
 7   the person has completed the ordered domestic violence  
 8   intervention~~[r]~~ programs or parenting classes. The court may  
 9   waive the subsequent hearing and appearance where a court  
 10   officer has established that the person has completed the  
 11   intervention ordered by the court.

12           (18) Notwithstanding any provision of law to the contrary,  
 13   the court may grant a deferred acceptance of guilty plea  
 14   pursuant to chapter 853 for misdemeanor or petty misdemeanor  
 15   offenses of abuse of a family or household member when the  
 16   defendant:

- 17           (a) Has no prior conviction; or
- 18           (b) Has not been previously granted a deferred acceptance  
 19           of guilty plea,  
 20   for any offense charged in family court under this section  
 21   regardless of the final plea.



1        (19) For the purposes of this section:

2        "Business day" means any calendar day, except Saturday,  
3 Sunday, or any state holiday.

4        "Family or household member":

5        (a) Means spouses or reciprocal beneficiaries, former  
6 spouses or reciprocal beneficiaries, persons in a  
7 dating relationship as defined under section 586-1,  
8 persons who have a child in common, parents, children,  
9 persons related by consanguinity, and persons jointly  
10 residing or formerly residing in the same dwelling  
11 unit; and

12        (b) Does not include those who are, or were, adult  
13 roommates or cohabitants only by virtue of an economic  
14 or contractual affiliation."

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

17        "(a) This chapter shall not apply when:

18        (1) The offense charged involves the intentional, knowing,  
19        reckless, or negligent killing of another person;

20        (2) The offense charged is:



1 (A) A felony that involves the intentional, knowing,  
2 or reckless bodily injury, substantial bodily  
3 injury, or serious bodily injury of another  
4 person; or

5 (B) A misdemeanor or petty misdemeanor that carries a  
6 mandatory minimum sentence and that involves the  
7 intentional, knowing, or reckless bodily injury,  
8 substantial bodily injury, or serious bodily  
9 injury of another person;

10 provided that the prohibition in this paragraph shall  
11 not apply to offenses described in section  
12 709-906(18);

13 (3) The offense charged involves a conspiracy or  
14 solicitation to intentionally, knowingly, or  
15 recklessly kill another person or to cause serious  
16 bodily injury to another person;

17 (4) The offense charged is a class A felony;

18 (5) The offense charged is nonprobationable;

19 (6) The defendant has been convicted of any offense  
20 defined as a felony by the Hawaii Penal Code or has



1           been convicted for any conduct that if perpetrated in  
2           this State would be punishable as a felony;

3           (7) The defendant is found to be a law violator or  
4           delinquent child for the commission of any offense  
5           defined as a felony by the Hawaii Penal Code or for  
6           any conduct that if perpetrated in this State would  
7           constitute a felony;

8           (8) The defendant has a prior conviction for a felony  
9           committed in any state, federal, or foreign  
10          jurisdiction;

11          (9) A firearm was used in the commission of the offense  
12          charged;

13          (10) The defendant is charged with the distribution of a  
14          dangerous, harmful, or detrimental drug to a minor;

15          (11) The defendant has been charged with a felony offense  
16          and has been previously granted deferred acceptance of  
17          guilty plea or no contest plea for a prior offense,  
18          regardless of whether the period of deferral has  
19          already expired;

20          (12) The defendant has been charged with a misdemeanor  
21          offense and has been previously granted deferred





- 1 acceptance of guilty plea or no contest plea for a  
2 prior felony, misdemeanor, or petty misdemeanor for  
3 which the period of deferral has not yet expired;
- 4 (13) The offense charged is:
- 5 (A) Escape in the first degree;
  - 6 (B) Escape in the second degree;
  - 7 (C) Promoting prison contraband in the first degree;
  - 8 (D) Promoting prison contraband in the second degree;
  - 9 (E) Bail jumping in the first degree;
  - 10 (F) Bail jumping in the second degree;
  - 11 (G) Bribery;
  - 12 (H) Bribery of or by a witness;
  - 13 (I) Intimidating a witness;
  - 14 (J) Bribery of or by a juror;
  - 15 (K) Intimidating a juror;
  - 16 (L) Jury tampering;
  - 17 (M) Promoting prostitution;
  - 18 (N) Abuse of family or household member[+] except as  
19 provided in paragraph (2) and section  
20 709-906(18);
  - 21 (O) Sexual assault in the second degree;



- 1 (P) Sexual assault in the third degree;
- 2 (Q) A violation of an order issued pursuant to
- 3 chapter 586;
- 4 (R) Promoting child abuse in the second degree;
- 5 (S) Promoting child abuse in the third degree;
- 6 (T) Electronic enticement of a child in the first
- 7 degree;
- 8 (U) Electronic enticement of a child in the second
- 9 degree;
- 10 (V) Prostitution pursuant to section 712-1200(1)(b);
- 11 (W) Street solicitation of prostitution under section
- 12 712-1207(1)(b);
- 13 (X) Solicitation of prostitution near schools or
- 14 public parks under section 712-1209;
- 15 (Y) Habitual solicitation of prostitution under
- 16 section 712-1209.5; or
- 17 (Z) Solicitation of a minor for prostitution under
- 18 section 712-1209.1;
- 19 (14) The defendant has been charged with:
- 20 (A) Knowingly or intentionally falsifying any report
- 21 required under chapter 11, part XIII with the





1 The purpose of this part is to make consistent the types of  
2 documents accepted as proof of domestic or sexual violence  
3 victim status.

4 SECTION 6. Section 378-2, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

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

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

10 ~~[(A) A signed written statement from a person listed~~  
11 ~~below from whom the employee or the employee's~~  
12 ~~minor child has sought assistance in relation to~~  
13 ~~the domestic or sexual violence;~~

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

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

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

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

20 ~~or~~

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



1           ~~(B) A police or court record supporting the~~  
2           ~~occurrence of the domestic or sexual violence;~~  
3           ~~and]~~

4           (A) Certified or exemplified restraining orders,  
5           injunctions against harassment, and documents  
6           from criminal cases;

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

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

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



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

16 SECTION 7. Section 378-72, Hawaii Revised Statutes, is  
 17 amended by amending subsection (d) to read as follows:

18 "(d) Where an employee has taken not more than five  
 19 calendar days of leave for non-medical reasons, the employee  
 20 shall provide certification to the employer in the form of a  
 21 signed statement within a reasonable period after the employer's



1 request, that the employee or the employee's minor child is a  
2 victim of domestic or sexual violence and the leave is for one  
3 of the purposes enumerated in subsection (a). If the leave  
4 exceeds five days per calendar year, then the certification  
5 shall be provided by one of the following methods:

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

13 ~~-(2) A police or court record related to the domestic or~~  
14 ~~sexual violence.]~~

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

18 (2) Documentation from a victim services organization or  
19 domestic or sexual violence program, agency, or  
20 facility, including a shelter or safe house for  
21 victims of domestic or sexual violence; or



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

6       SECTION 8. Section 383-7.6, Hawaii Revised Statutes, is  
 7 amended by amending subsection (b) to read as follows:

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

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

17       (2) A signed written statement from:

18       ~~-(A) An employee, agent, or volunteer of a victim~~  
 19       ~~services organization;~~

20       ~~-(B) The individual's attorney or advocate;~~

21       ~~-(C) A minor child's attorney or advocate; or~~





1           ~~(D) A medical or other professional from whom the~~  
2           ~~individual or the individual's minor child has~~  
3           ~~sought assistance related to the domestic or~~  
4           ~~sexual violence,]~~

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

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

15           attesting to the domestic or sexual violence and  
16           explaining how the continued employment creates an  
17           unreasonable risk of further violence; or

18           (3) ~~[A police or court record]~~ Certified or exemplified  
19           restraining orders, injunctions against harassment,  
20           and documents from criminal cases suggesting or



1           demonstrating that the continued employment may cause  
2           an unreasonable risk of further violence."

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

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

10           (1) Loss of full-time work with a regular employer made it  
11 economically unfeasible to continue part-time  
12 employment;

13           (2) The part-time employment was outside the individual's  
14 customary occupation and would not have been  
15 considered suitable work at the time the individual  
16 accepted part-time employment. In determining whether  
17 an individual is reasonably fitted for a particular  
18 job, the department shall consider:

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

21           (B) The individual's physical fitness;



- 1 (C) The individual's prior training;
- 2 (D) The individual's experience;
- 3 (E) The individual's prior earnings;
- 4 (F) The length of the individual's unemployment;
- 5 (G) The individual's prospects for obtaining work in
- 6 the individual's customary occupation;
- 7 (H) The distance of available work from the
- 8 individual's residence; and
- 9 (I) The individual's prospects for obtaining local
- 10 work.

11 As used in this paragraph, "suitable work" means work  
12 in the individual's usual occupation or work for which  
13 the individual is reasonably fitted;

- 14 (3) The employer failed to provide sufficient advance
- 15 notice of a work schedule change;
- 16 (4) There was a work schedule conflict with other
- 17 concurrent part-time or full-time employment;
- 18 (5) A real, substantial, or compelling reason, or a reason
- 19 that would cause a reasonable and prudent employee,
- 20 genuinely and sincerely desirous of maintaining
- 21 employment, to take similar action and to try



- 1 reasonable alternatives before terminating the  
2 employment relationship;
- 3 (6) Change in working conditions and the change is  
4 prejudicial or detrimental to the health, safety, or  
5 morals of the employee;
- 6 (7) Change in terms and conditions of employment,  
7 including change in rate of pay, position or grade,  
8 duties, days of work, or hours of work;
- 9 (8) Discrimination that violates federal or state laws  
10 regarding equal employment opportunity practices;
- 11 (9) Change in the employee's marital or domestic status;
- 12 (10) Acceptance of a definite, firm offer made of other  
13 employment where the offer is subsequently withdrawn  
14 and the former employer refuses to rehire the  
15 employee;
- 16 (11) Retirement under a mandatory requirement imposed by a  
17 collective bargaining agreement;
- 18 (12) Evidence that the employee was a victim of domestic or  
19 sexual violence, including any circumstance that  
20 causes a reasonable employee to believe that other  
21 available alternatives, such as a leave of absence, a



1 transfer of jobs, or an alternate work schedule, would  
 2 not be sufficient to guarantee the safety of the  
 3 employee and that separation from employment was  
 4 necessary to address the resulting physical and  
 5 psychological effects, to seek or reside in an  
 6 emergency shelter, or to avoid future domestic or  
 7 sexual violence. Evidence includes [~~police records,~~  
 8 ~~court records, statements from the individual, a~~  
 9 ~~volunteer of a victim services organization, the~~  
 10 ~~employee's attorney or advocate, a member of the~~  
 11 ~~clergy, medical, or other professional from whom the~~  
 12 ~~employee has sought assistance related to the domestic~~  
 13 ~~or sexual violence, or other corroborating evidence.]:~~

14 (A) Certified or exemplified restraining orders,  
 15 injunctions against harassment, and documents  
 16 from criminal cases;

17 (B) Documentation from a victim services organization  
 18 or domestic or sexual violence program, agency,  
 19 or facility, including a shelter or safe house  
 20 for victims of domestic or sexual violence;



- 1           (C) Documentation from a medical professional, mental
- 2           health care provider, attorney, advocate, social
- 3           worker, or member of the clergy from whom the
- 4           employee or the employee's minor child has sought
- 5           assistance in relation to the domestic or sexual
- 6           violence; or
- 7           (D) Statements from the individual, or other
- 8           corroborating evidence.

9           As used in this paragraph, "domestic or sexual  
10           violence" includes domestic abuse, sexual assault, or  
11           stalking; or

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

14           SECTION 10. Section 521-80, Hawaii Revised Statutes, is  
15           amended by amending subsection (a) to read as follows:

16           "(a) A tenant may terminate a rental agreement of a term  
17           of one year or less without penalty or fees for early  
18           termination or liability for future rent if the tenant or an  
19           immediate family member of the tenant residing at the dwelling  
20           unit has been the victim of domestic violence during the ninety  
21           days preceding the date the notice of early termination is



1 provided to the landlord. The notice shall be given at least  
2 fourteen days prior to the early termination date specified in  
3 the notice, which shall be no more than one hundred four days  
4 from the date of the most recent act of domestic violence. The  
5 notice shall be accompanied by one of the following documents:

6 ~~[(1) A copy of a valid order of protection issued by a  
7 court of any state to the tenant or immediate family  
8 member of the tenant as a result of the tenant or the  
9 immediate family member of the tenant having been a  
10 victim of domestic violence;~~

11 ~~-(2) A copy of a police report filed with an agency of any  
12 state that states that the tenant or immediate family  
13 member of the tenant was a victim of domestic  
14 violence; or~~

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

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



1       (2) Documentation from a victim services organization or  
2       domestic violence program, agency, or facility,  
3       including a shelter or safe house for victims of  
4       domestic 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 victim  
8       has sought assistance in relation to the domestic  
9       violence.

10 The tenant shall also provide to the landlord a written  
11 statement, which describes that the tenant reasonably believes  
12 that the person who committed the domestic violence knows the  
13 address or location where the tenant or immediate family member  
14 of the tenant resides, unless the person who committed the  
15 domestic violence resides in the same dwelling unit."

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

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

20       (1) The primary applicant's name;





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

5 (3) Evidence that the primary applicant is a victim of  
6 domestic abuse, a sexual offense, or stalking,  
7 including any of the following:

8 (A) Records or files of a court or government agency  
9 including but not limited to police reports,  
10 valid restraining orders, injunctions against  
11 harassment, and documents from criminal cases;

12 (B) Documentation from a domestic abuse program,  
13 agency, or facility including [~~but not limited~~  
14 ~~to~~] a [~~women's~~] shelter or safe house[+] for  
15 domestic abuse victims;

16 (C) Documentation from a sexual assault program; [~~or~~]

17 (D) Documentation from a medical professional, mental  
18 health care provider, [~~or other class of~~  
19 ~~professionals designated by the program director~~]  
20 attorney, advocate, social worker, or member of  
21 the clergy from whom the primary applicant has



1                   sought assistance in dealing with the alleged  
2                   domestic abuse, sexual offense, or stalking; or  
3                   (E) Documentation from a victim services  
4                   organization;

5           (4) A statement by the primary applicant that disclosure  
6           of the primary applicant's actual address will  
7           endanger the primary applicant's safety;

8           (5) A statement by the primary applicant that the primary  
9           applicant has confidentially relocated to an address  
10           in the State or will relocate to an address in the  
11           State within thirty days of the date of application  
12           and will not disclose the location to assailants or  
13           known potential assailants;

14           (6) The primary applicant's written consent that the  
15           program shall serve as the agent for the primary  
16           applicant for purposes of service of process and  
17           receiving mail;

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

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



- 1 (9) A statement as to whether there is any existing court  
2 order or court action involving the primary applicant  
3 or an individual identified in paragraph (10) related  
4 to dissolution of marriage proceedings, child support,  
5 or the allocation of parental responsibilities or  
6 parenting time, including the court that issued the  
7 order or has jurisdiction over the action;
- 8 (10) The name of any person who resides with the primary  
9 applicant who may apply as a secondary applicant  
10 pursuant to section 801G-4 to ensure the safety of the  
11 primary applicant;
- 12 (11) The primary applicant's sworn statement that the  
13 information contained in the application is true;
- 14 (12) The application assistant's statement that the  
15 application assistant has met with and discussed the  
16 application with the primary applicant and that the  
17 application assistant recommends that the primary  
18 applicant be assigned a substitute address; and
- 19 (13) The date and signature of the primary applicant, the  
20 application assistant, and, if applicable, the primary  
21 applicant's parent or guardian."



1 PART III

2 SECTION 12. No later than forty days prior to the  
3 convening of the regular sessions of 2022, 2023, 2024, 2025, and  
4 2026, the judiciary shall submit a report to the legislature  
5 that includes, for cases filed with the judiciary involving  
6 offenses under section 709-906, Hawaii Revised Statutes, the  
7 outcome of each case, including the number of cases dismissed,  
8 by category; the number found not guilty; the number found  
9 guilty; and other outcomes, by category; provided that in cases  
10 in which an offender was required to complete a domestic  
11 violence intervention programs or parenting classes, the report  
12 shall include, by category, the number of cases in which the  
13 program was completed or not completed and the consequences for  
14 failure to complete the program.

15 PART IV

16 SECTION 13. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19 SECTION 14. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 15. This Act shall take effect on January 1, 2021;  
2 provided that sections 2, 3, and 4 shall be repealed on June 30,  
3 2026; provided further that sections 706-623, 709-906, and  
4 853-4, Hawaii Revised Statutes, shall be reenacted in the form  
5 in which they read on the day prior to the effective date of  
6 this Act.



**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. Establishes a probationary period for abuse of family or household members. 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. (HD3)

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

