

JAN 26 2022

A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1 SECTION 1. Since the 1990s, the legislature, as a matter
2 of public policy, has made a concerted effort to reduce and
3 prevent domestic violence in the State. One of these efforts
4 was an amendment to section 586-4, Hawaii Revised Statutes, to
5 authorize a family court to order a violator of the court's
6 temporary restraining order to undergo mandatory domestic
7 violence intervention. The statute also provides that the
8 family court may impose additional sanctions applicable to a
9 misdemeanor sentence.

10 The legislature believes that in the supreme court of
11 Hawaii's decision in *State v. Agdinaoay*, 500 P.3d 408 (Haw.
12 2021), the majority erred when it misinterpreted section
13 586-4(e), Hawaii Revised Statutes, and held that domestic
14 violence intervention may only be ordered as a condition of
15 probation.



1 Accordingly, the purpose of this Act is to clarify that a
2 family court may order domestic violence intervention, in
3 addition to any other misdemeanor sentencing options.

4 SECTION 2. Chapter 580, Hawaii Revised Statutes, is
5 amended by adding a new section to part I to be appropriately
6 designated and to read as follows:

7 "§580- **Domestic violence intervention.** Notwithstanding
8 chapter 706 or any other law to the contrary, any sentence for
9 domestic violence intervention specified by section 580-10 shall
10 be imposed by the court, with or without probation."

11 SECTION 3. Chapter 586, Hawaii Revised Statutes, is
12 amended by adding a new section to part I to be appropriately
13 designated and to read as follows:

14 "§586- **Domestic violence intervention.** Notwithstanding
15 chapter 706 or any other law to the contrary, any sentence for
16 domestic violence intervention specified by section 586-4 or
17 section 586-11 shall be imposed by the court, with or without
18 probation."

19 SECTION 4. Chapter 709, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



S.B. NO. 3166

1 "§709- Domestic violence intervention. Notwithstanding
 2 chapter 706 or any other law to the contrary, any sentence for
 3 domestic violence intervention specified by section 709-906
 4 shall be imposed by the court, with or without probation."

5 SECTION 5. Section 701-102, Hawaii Revised Statutes, is
 6 amended by amending subsection (3) to read as follows:

7 "(3) The provisions of chapters 701 through 706 of the
 8 Code are applicable to offenses defined by other statutes,
 9 unless [~~the Code~~] otherwise [~~provides.~~] provided by applicable
 10 law."

11 SECTION 6. Section 706-600, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§706-600 Sentence in accordance with this chapter[~~—No~~];**
 14 **other applicable law.** A sentence shall be imposed [~~otherwise~~
 15 ~~than~~] in accordance with this chapter[~~-~~], unless otherwise
 16 provided by applicable law."

17 SECTION 7. Section 706-605, Hawaii Revised Statutes, is
 18 amended by amending subsection (1) to read as follows:

19 "(1) Except as provided in parts II and IV or in section
 20 706-647 and subsections (2), (6), and (7), and subject to the
 21 applicable provisions of this Code, the court may sentence a



1 convicted defendant to one or more of the following
2 dispositions:

3 (a) To be placed on probation as authorized by part II;

4 (b) To pay a fine as authorized by part III and section
5 706-624;

6 (c) To be imprisoned for a term as authorized by part IV;
7 [~~or~~]

8 (d) To perform services for the community under the
9 supervision of a governmental agency or benevolent or
10 charitable organization or other community service
11 group or appropriate supervisor; provided that the
12 convicted person who performs such services shall not
13 be deemed to be an employee of the governmental agency
14 or assigned work site for any purpose. All persons
15 sentenced to perform community service shall be
16 screened and assessed for appropriate placement by a
17 governmental agency coordinating public service work
18 placement as a condition of sentence[-]; or

19 (e) To undergo domestic violence programs pursuant to
20 chapter 580, chapter 586, chapter 709, or other
21 applicable law, with or without probation."



S.B. NO. 3166

Report Title:

Crime; Sentences; Domestic Violence; Abuse; Restraining Orders

Description:

Clarifies that, notwithstanding chapter 706, HRS, or any other law to the contrary, sentences for domestic violence intervention for abuse-related offenses shall be imposed, with or without probation.

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

