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# A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

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

1           SECTION 1. Section 586-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3           "(e) When a temporary restraining order is granted and the  
4 respondent or person to be restrained knows of the order, a  
5 knowing or intentional violation of the restraining order [~~is~~  
6 shall be a misdemeanor. A person convicted under this section  
7 shall be ordered by the court to complete an assessment at any  
8 available domestic violence program and shall complete a  
9 domestic violence intervention or anger management course as  
10 determined by the domestic violence program. The court  
11 additionally shall sentence a person convicted under this  
12 section as follows:

13           (1) Except as provided in paragraph (2), for a first  
14 conviction for a violation of the temporary  
15 restraining order, the person shall serve a mandatory  
16 minimum jail sentence of [~~forty-eight hours~~] five days



1 and be fined no less than [~~\$150~~] \$300 nor more than  
2 \$500;

3 (2) For a first conviction for a violation of the  
4 temporary restraining order, if the person has a prior  
5 conviction for any of the following felonies:

6 (A) Section 707-701 relating to murder in the first  
7 degree;

8 (B) Section 707-701.5 relating to murder in the  
9 second degree;

10 (C) Section 707-710 relating to assault in the first  
11 degree;

12 (D) Section 707-711 relating to assault in the second  
13 degree;

14 (E) Section 707-720 relating to kidnapping;

15 (F) Section 707-721 relating to unlawful imprisonment  
16 in the first degree;

17 (G) Section 707-730 relating to sexual assault in the  
18 first degree;

19 (H) Section 707-731 relating to sexual assault in the  
20 second degree;



- 1 (I) Section 707-732 relating to sexual assault in the
- 2 third degree;
- 3 (J) Section 707-733.6 relating to continuous sexual
- 4 assault of a minor under the age of fourteen
- 5 years;
- 6 (K) Section 707-750 relating to promoting child abuse
- 7 in the first degree;
- 8 (L) Section 708-810 relating to burglary in the first
- 9 degree;
- 10 (M) Section 708-811 relating to burglary in the
- 11 second degree;
- 12 (N) Section 709-906 relating to abuse of family or
- 13 household members; or
- 14 (O) Section 711-1106.4 relating to aggravated
- 15 harassment by stalking;
- 16 and if any of these offenses has been committed
- 17 against a family or household member as defined in
- 18 section 586-1, the person shall serve a mandatory
- 19 minimum term of imprisonment of [~~fifteen~~] thirty days
- 20 and be fined no less than [~~\$150~~] \$350 nor more than
- 21 \$600; and



1 (3) For the second and any subsequent conviction for a  
2 violation of the temporary restraining order, the  
3 person shall serve a mandatory minimum jail sentence  
4 of [~~thirty~~] forty-five days and be fined no less than  
5 [~~\$250~~] \$500 nor more than \$1,000;

6 provided that the court shall not sentence a defendant to pay a  
7 fine [~~unless~~] if the court makes an on-the-record determination  
8 that the defendant is or will be [~~able~~] unable to pay the fine.

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

15 The court may suspend any jail sentence, except for the  
16 mandatory sentences under paragraphs (1), (2), and (3) upon  
17 condition that the defendant remain alcohol- and drug-free,  
18 conviction-free, [~~or~~] and complete court-ordered assessments or  
19 intervention. Nothing in this section shall be construed as  
20 limiting the discretion of the judge to impose additional  
21 sanctions authorized in sentencing for a misdemeanor."



1 SECTION 2. Section 586-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Whenever an order for protection is granted pursuant  
4 to this chapter, a respondent or person to be restrained who  
5 knowingly or intentionally violates the order for protection  
6 shall be guilty of a misdemeanor. A person convicted under this  
7 section shall be ordered by the court to complete an assessment  
8 at any available domestic violence program and shall complete a  
9 domestic violence intervention or anger management course as  
10 determined by the domestic violence program. The court  
11 additionally shall sentence a person convicted under this  
12 section as follows:

13 (1) For a first conviction for violation of the order for  
14 protection[+]

15 ~~(A) That is in the nature of non-domestic abuse, the~~  
16 ~~person may be sentenced to a jail sentence of~~  
17 ~~forty-eight hours and be fined no more than \$150;~~  
18 ~~or~~

19 ~~(B) That is in the nature of domestic abuse], the~~  
20 person shall be sentenced to a mandatory minimum  
21 jail sentence of no less than [forty-eight hours]



1            five days and be fined no less than [~~\$150~~] \$300  
2            nor more than \$500;

3            provided that any conviction for violation of a  
4            temporary restraining order under section 586-4(e),  
5            issued under the same judicial case number as the  
6            order for protection, shall be treated as a prior  
7            violation of an order for protection; and

8            (2) For [~~a~~] the second and any subsequent conviction for  
9            violation of the order for protection[+]

10           ~~(A) That is in the nature of non-domestic abuse, and~~  
11           ~~occurs after a first conviction for violation of~~  
12           ~~the same order that was in the nature of non-~~  
13           ~~domestic abuse, the person shall be sentenced to~~  
14           ~~a mandatory minimum jail sentence of no less than~~  
15           ~~forty-eight hours and be fined no more than \$250;~~

16           ~~(B) That is in the nature of domestic abuse, and]~~  
17           that occurs after a first conviction for  
18           violation of the same order [~~that was in the~~  
19           ~~nature of domestic abuse,~~] or conviction for a  
20           violation of the temporary restraining order  
21           under section 586-4(e), issued under the same



1                   judicial case number as the order for protection,  
2                   the person shall be sentenced to a mandatory  
3                   minimum jail sentence of no less than [~~thirty~~  
4                   forty-five days and be fined no less than [~~\$250~~  
5                   \$500 nor more than \$1,000;

6                   ~~[(C) That is in the nature of non-domestic abuse, and~~  
7                   ~~occurs after a first conviction for violation of~~  
8                   ~~the same order that was in the nature of domestic~~  
9                   ~~abuse, the person shall be sentenced to a~~  
10                   ~~mandatory minimum jail sentence of no less than~~  
11                   ~~forty-eight hours and be fined no more than \$250;~~  
12                   ~~or~~

13                   ~~-(D) That is in the nature of domestic abuse, and~~  
14                   ~~occurs after a first conviction for violation of~~  
15                   ~~the same order that is in the nature of non-~~  
16                   ~~domestic abuse, the person shall be sentenced to~~  
17                   ~~a mandatory minimum jail sentence of no less than~~  
18                   ~~forty-eight hours and be fined no more than \$150;~~  
19                   ~~and~~

20                   ~~-(3) For any subsequent violation that occurs after a~~  
21                   ~~second conviction for violation of the same order for~~

1           ~~protection, the person shall be sentenced to a~~  
2           ~~mandatory minimum jail sentence of not less than~~  
3           ~~thirty days and be fined not less than \$250 nor more~~  
4           ~~than \$1,000;]~~

5           provided that the court shall not sentence a defendant to pay a  
6           fine [~~unless~~] if the court makes an on-the-record determination  
7           that the defendant is or will be [able] unable to pay the fine.

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

14          The court may suspend any jail sentence under  
15          [~~subparagraphs (1)(A) and (2)(C),~~] paragraphs (1) and (2), upon  
16          condition that the defendant remain alcohol- and drug-free,  
17          conviction-free, [~~or~~] and complete court-ordered assessments or  
18          intervention. Nothing in this section shall be construed as  
19          limiting the discretion of the judge to impose additional  
20          sanctions authorized in sentencing for a misdemeanor offense.



1 All remedies for the enforcement of judgments shall apply to  
2 this chapter."

3 SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Domestic Abuse Protective Orders; Temporary Restraining Order;  
Order for Protection; Penalties

**Amends:**

Increases the penalties imposed on individuals convicted for violations of temporary restraining orders and orders for protection. Clarifies that the court shall not sentence a defendant to pay a fine for violating a domestic abuse protective order if the court makes an on-the-record determination that the defendant is or will be unable to pay the fine. Specifies that any conviction for violation of a temporary restraining order issued under the same judicial case number as an order for protection shall be treated as a prior violation of an order for protection. Clarifies when the court may suspend certain jail sentences for violations of domestic abuse protective orders. (HD2)

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

