

JAN 21 2026

A BILL FOR AN ACT

RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS.

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

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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



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

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

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



1 shall not be included in the computation of the two
2 business days;

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



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



1 arrest for the purpose of preventing further physical
2 abuse or harm to the family or household member; and
3 (f) The police officer shall seize all firearms and
4 ammunition that the police officer has reasonable
5 grounds to believe were used or threatened to be used
6 in the commission of an offense under this section.

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

11 (a) For the first offense the person shall serve a minimum
12 jail sentence of forty-eight hours; and

13 (b) For a second offense that occurs within one year of
14 the first conviction, the person shall be termed a
15 "repeat offender" and serve a minimum jail sentence of
16 thirty days.

17 (6) It shall be a petty misdemeanor for a person to
18 intentionally or knowingly strike, shove, kick, or otherwise
19 touch a family or household member in an offensive manner;
20 subject the family member or household member to offensive
21 physical contact; or exercise coercive control, as defined in



1 section 586-1, over a family or household member and the person
2 shall be sentenced as provided in sections 706-640 and 706-663.
3 Upon conviction and sentencing of the defendant, the court may
4 order that the defendant immediately be incarcerated to serve
5 the mandatory minimum sentence imposed; provided that the
6 defendant may be admitted to bail pending appeal pursuant to
7 chapter 804. The court may stay the imposition of the sentence
8 if special circumstances exist.

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



1 (a) The defendant fails to complete, within the specified
2 time frame, any domestic violence intervention course,
3 anger management course, or parenting classes ordered
4 by the court; or

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

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

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



1 (9) Where the physical abuse consists of intentionally or
2 knowingly causing bodily injury by impeding the normal breathing
3 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 (10) Where physical abuse occurs in the presence of a
14 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 (11) Any police officer who arrests a person pursuant to
18 this section shall not be subject to any civil or criminal
19 liability; provided that the police officer acts in good faith,
20 upon reasonable belief, and does not exercise unreasonable force
21 in effecting the arrest.



1 (12) The family or household member who has been physically
2 abused or harmed by another person may petition the family
3 court, with the assistance of the prosecuting attorney of the
4 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 (13) The defendant shall be taken into custody and brought
8 before the family court at the first possible opportunity. The
9 court may dismiss the petition or hold the defendant in custody,
10 subject to bail. Where the petition is not dismissed, a hearing
11 shall be set.

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

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

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



(17) When a person is ordered by the court to complete any domestic violence intervention course, anger management course, or parenting classes, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention course, anger management course, or parenting classes. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.

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

~~(a) Has no prior conviction; or~~

~~(b) Has not been previously granted a deferred acceptance of guilty plea,~~

~~for any offense charged in family court under this section regardless of the final plea.~~



~~(19)~~] (18) For the purposes of this section:

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

"Family or household member":

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

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

SECTION 2. Section 853-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply when:

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

(2) The offense charged is:



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

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

~~[provided that the prohibition in this paragraph shall not apply to offenses described in section 709-906(18)+]~~

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

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

(5) The offense charged is nonprobationable;

(6) The defendant has been convicted of any offense 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 709-~~
20 ~~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) Commercial sexual exploitation pursuant to
- 11 section 712-1200.5;
- 12 (W) Street prostitution and commercial sexual
- 13 exploitation under section 712-1207(1)(b) or
- 14 (2)(b);
- 15 (X) Commercial sexual exploitation near schools or
- 16 public parks under section 712-1209;
- 17 (Y) Commercial sexual exploitation of a minor under
- 18 section 712-1209.1;
- 19 (Z) Habitual commercial sexual exploitation under
- 20 section 712-1209.5;



1 (AA) Violation of privacy in the first degree under
2 section 711-1110.9;

3 (BB) Violation of privacy in the second degree under
4 section 711-1111(1)(d), (e), (f), (g), or (h);

5 (CC) Habitually operating a vehicle under the
6 influence of an intoxicant under section
7 291E-61.5(a);

8 (DD) Promoting gambling in the first degree; or
9 (EE) Promoting gambling in the second degree;

10 (14) The defendant has been charged with:

11 (A) Knowingly or intentionally falsifying any report
12 required under part XIII of chapter 11, with the
13 intent to circumvent the law or deceive the
14 campaign spending commission; or

15 (B) Violating section 11-352 or 11-353; or

16 (15) The defendant holds a commercial driver's license and
17 has been charged with violating a traffic control law,
18 other than a parking law, in connection with the
19 operation of any type of motor vehicle."

20 SECTION 3. Act 19, Session Laws of Hawaii 2020, is amended
21 by amending section 15 to read as follows:



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

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

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval;
13 provided that section 3 shall take effect on June 29, 2026.

14
INTRODUCED BY:


By Request



S.B. NO. 2254

Report Title:

Honolulu Prosecuting Attorney Package; Abuse of Family or Household Member; Petty Misdemeanor; Deferred Acceptance of Guilty Plea

Description:

Maintains the petty misdemeanor offense of abuse of family or household member by repealing the sunset of amendments made to sections 709-906 and 853-4, HRS, by Act 19, SLH 2020. Repeals provisions authorizing a deferred acceptance of a guilty plea for misdemeanor and petty misdemeanor abuse of family or household members offenses.

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