

## ACT 189

H. B. NO. 661

A Bill for an Act Relating to Spouse Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 709- Spouse abuse, penalty.** (a) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (c).

(b) Any police officer may, with or without a warrant, arrest a person if he has reasonable grounds to believe that the person is physically abusing his or her spouse in his presence and that the person arrested is guilty thereof.

(c) Any police officer may, with or without a warrant, take the following course of action where he has reasonable grounds to believe that there was recent, substantial, physical harm inflicted by one spouse upon the other and where such physical harm has not occurred in his presence:

- (1) He may make reasonable inquiry of the spouse upon whom he believes recent, substantial, physical harm has been inflicted and other witnesses as there may be, to ascertain whether there is probable danger of further substantial, physical harm being inflicted upon such injured spouse by the other spouse; and
- (2) Where he has reasonable grounds to believe that there is such probable danger he may lawfully order such other spouse to voluntarily leave the premises for a cooling off period of three hours; and
- (3) If such other spouse refuses to comply with such reasonable request or returns to the premises before the expiration of three hours, he

may place such other spouse under arrest for the purpose of preventing further physical harm to the injured spouse.

(d) Spouse abuse, and refusal to comply with the lawful order of a police officer under subsection (c) are misdemeanors.

(e) The spouse who has been physically abused or harmed by his or her spouse may petition the family court for a bench warrant to issue forthwith.

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

(g) If it is established beyond a reasonable doubt at the hearing that the respondent physically abused his or her spouse, then the court may find the spouse guilty of a misdemeanor.

(h) It shall be the duty of the family court to assist any petitioner under this section in the preparation of the petition.

(i) This section shall not preclude the physically abused spouse from pursuing any other remedy under law or in equity.

(j) Upon dismissal of such person and discharge of the proceeding against him or her under this section, such person, if the offense is the only offense against the other spouse for a period of not less than one year, may apply for an order to expunge from all official records all recordation relating to his or her arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her were discharged and that no other similar offenses were charged against him or her for a period not less than one year, it shall enter such order.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1973.)

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\*Edited accordingly.