

A Bill for an Act Relating to Domestic Abuse.

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

SECTION 1. Section 586-11, Hawaii Revised Statutes, is amended to read as follows:

“§586-11 Violation of an order for protection. Whenever an order for protection is granted pursuant to this chapter, a respondent or person to be restrained who knowingly or intentionally violates the order for protection is guilty of a misdemeanor. The court shall sentence a violator to appropriate counseling and shall sentence a person convicted under this section as follows:

- (1) For a violation of the order for protection that occurs after a conviction for a violation of the same order, a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
- (2) For any subsequent violation that occurs after a second conviction for violation of the same order for protection, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty days.]
- (1) For a first conviction for violation of the order for protection:
 - (A) That is in the nature of non-domestic abuse, a violator may be sentenced to a jail sentence of forty-eight hours;
 - (B) That is in the nature of domestic abuse, a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
- (2) For a second conviction for violation of the order for protection:
 - (A) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of non-domestic abuse, a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
 - (B) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, a violator shall be sentenced to a mandatory minimum jail sentence of not less than thirty days;
 - (C) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours, unless the court, in writing, finds that the violation does not warrant a jail sentence and provides the reasons for its decision;
 - (D) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that is in the nature of non-domestic abuse, a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
- (3) For any subsequent violation that occurs after a second conviction for violation of the same order for protection, the court shall impose a mandatory minimum sentence of not less than thirty days imprisonment.

The court may suspend any jail sentence [except the mandatory sentences] under [paragraphs (2) and (3),] subparagraphs (1)(A) and (2)(C), upon appropriate

conditions such as that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or counseling. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor offense. All remedies for the enforcement of judgments shall apply to this chapter.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1993.)