

## ACT 180

S.B. NO. 2218

A Bill for an Act Relating to Electronic Monitoring.

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

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

“(e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this ~~[section]~~ subsection shall undergo domestic violence intervention at any available domestic violence program as ordered by the court. The court additionally shall sentence a person convicted under this ~~[section]~~ subsection as follows:

- (1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined not less than \$150 nor more than \$500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and
- (2) For the second and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty days and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

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

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

If the court finds that the defendant has knowledge of the location of any protected party’s residence, place of employment, or school, in addition to any other penalties provided in this subsection, the court may, as a condition of probation, prohibit contact with the protected party through the establishment of court-defined geographic exclusion zones, including the areas in and around the protected party’s residence, place of employment, or school, and order that the defendant wear a global positioning satellite tracking device designed to transmit and record the defendant’s location data. If the defendant enters a court-defined geographic exclusion zone, the defendant’s location data shall be immediately transmitted to the protected party and to the police through any appropriate means, including the telephone, an electronic beeper, or a paging device. The global positioning satellite tracking device and its tracking shall be administered by the court. If a court finds that the defendant has entered a geographic exclusion zone, the court shall revoke the probation and the defendant shall be fined, imprisoned, or both, as provided in this subsection. Based on the defendant’s ability to pay, the court may also order the defendant to pay the monthly costs or portion thereof for monitoring by the global positioning satellite tracking system.”

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

“(a) 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. A person convicted under this ~~[section]~~ subsection shall undergo domestic violence intervention at any available domestic violence program as ordered by the court. The court additionally shall sentence a person convicted under this ~~[section]~~ subsection as follows:

- (1) For a first conviction for violation of the order for protection:
  - (A) That is in the nature of non-domestic abuse, the person may be sentenced to a jail sentence of forty-eight hours and be fined not more than \$150; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
  - (B) That is in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not less than \$150 nor more than \$500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
- (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, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than \$250; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
  - (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, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty days and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
  - (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, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than \$250; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
  - (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, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours and be fined not more than \$150; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;
- (3) 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 and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sen-

tence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

The court may suspend any jail sentence under subparagraphs (1)(A) and (2) (C), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this ~~section~~ subsection 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.

If the court finds that the defendant has knowledge of the location of any protected party's residence, place of employment, or school, in addition to any other penalties provided in this subsection, the court may, as a condition of probation, prohibit contact with the protected party through the establishment of court-defined geographic exclusion zones, including the areas in and around the protected party's residence, place of employment, or school, and order that the defendant wear a global positioning satellite tracking device designed to transmit and record the defendant's location data. If the defendant enters a court-defined geographic exclusion zone, the defendant's location data shall be immediately transmitted to the protected party and to the police through any appropriate means, including the telephone, an electronic beeper, or a paging device. The global positioning satellite tracking device and its tracking shall be administered by the court. If a court finds that the defendant has entered a geographic exclusion zone, the court shall revoke the probation and the defendant shall be fined, imprisoned, or both, as provided in this subsection. Based on the defendant's ability to pay, the court may also order the defendant to pay the monthly costs or portion thereof for monitoring by the global positioning satellite tracking system."

SECTION 3. The judiciary shall establish and implement the provisions relating to global satellite tracking devices under sections 1 and 2 of this Act within one year of the effective date of this Act.

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

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

SECTION 6. This Act shall take effect on July 1, 2008 and shall be repealed on July 1, 2010.

(Approved June 16, 2008.)