

ACT 43

H.B. NO. 2422

A Bill for an Act Relating to Sentencing.

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

SECTION 1. Since the 1990s, the legislature, as a matter of public policy, has made a concerted effort to reduce and prevent domestic violence in the State. One of these efforts was an amendment to section 586-4, Hawaii Revised Statutes, to authorize a family court to order a violator of the court's temporary restraining order to undergo mandatory domestic violence intervention. The statute also provides that the family court may impose additional sanctions applicable to a misdemeanor sentence.

The legislature believes that in the Hawaii supreme court's decision in *State v. Agdinaoay*, 150 Hawaii 223 (2021), the majority erred when it misinterpreted section 586-4(e), Hawaii Revised Statutes, and held that domestic violence intervention may only be ordered as a condition of probation.

Accordingly, the purpose of this Act is to clarify that a family court must impose a sentence for domestic violence intervention, with or without probation, for violations of restraining orders, orders for protection, and abuse of family or household members.

SECTION 2. Chapter 580, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§580- Domestic violence intervention. Notwithstanding chapter 706 or any other law to the contrary, any sentence for domestic violence intervention specified by section 580-10 shall be imposed by the court, with or without probation.”

SECTION 3. Chapter 586, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§586- Domestic violence intervention. Notwithstanding chapter 706 or any other law to the contrary, any sentence for domestic violence intervention specified by section 586-4 or section 586-11 shall be imposed by the court, with or without probation.”

SECTION 4. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§709- Domestic violence intervention. Notwithstanding chapter 706 or any other law to the contrary, any sentence for domestic violence intervention specified by section 709-906 shall be imposed by the court, with or without probation.”

SECTION 5. Section 701-102, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) The provisions of chapters 701 through 706 of the Code are applicable to offenses defined by other statutes, unless ~~[the Code]~~ otherwise ~~[provides]~~ provided by applicable law.”

SECTION 6. Section 706-600, Hawaii Revised Statutes, is amended to read as follows:

“§706-600 Sentence in accordance with this chapter~~[- No]; other applicable law.~~ A sentence shall be imposed [otherwise than] in accordance with this chapter[-], unless otherwise provided by applicable law.”

SECTION 7. Section 706-605, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Except as provided in parts II and IV or in section 706-647 and subsections (2), (6), and (7), and subject to the applicable provisions of this Code, the court may sentence a convicted defendant to one or more of the following dispositions:

- (a) To be placed on probation as authorized by part II;
- (b) To pay a fine as authorized by part III and section 706-624;
- (c) To be imprisoned for a term as authorized by part IV; ~~[or]~~
- (d) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or appropriate supervisor; provided that the convicted person who performs ~~[such]~~ these services shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. All persons sentenced to perform community service shall be screened and assessed for appropriate placement by a governmental agency coordinating public service work placement as a condition of sentence~~[-]; or~~ or

(e) To undergo domestic violence programs pursuant to chapter 580, 586, or 709 or other applicable law, with or without probation.”

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

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved June 17, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.