
A BILL FOR AN ACT

RELATING TO ELECTRONIC MONITORING.

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

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

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

11 (1) For a first conviction for violation of the temporary
12 restraining order, the person shall serve a mandatory
13 minimum jail sentence of forty-eight hours and be
14 fined not less than \$150 nor more than \$500; provided
15 that the court shall not sentence a defendant to pay a
16 fine unless the defendant is or will be able to pay
17 the fine; and



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

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

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

21 In addition to the penalties provided for in this
22 subsection, as a condition of probation, the court may prohibit



1 contact with the protected party through the establishment of
2 court defined geographic exclusion zones known to the defendant,
3 including the areas in and around the protected party's
4 residence, place of employment, and the protected party's
5 child's school, and order that the defendant wear a global
6 positioning satellite tracking device designed to transmit and
7 record the defendant's location data. If the defendant enters a
8 court defined geographic exclusion zone, the defendant's
9 location data shall be immediately transmitted to the protected
10 party and to the police, through an appropriate means, including
11 the telephone, an electronic beeper, or a paging device. The
12 global positioning satellite tracking device and its tracking
13 shall be administered by the court. If a court finds that the
14 defendant has entered a geographic exclusion zone, it shall
15 revoke the probation and the defendant shall be fined,
16 imprisoned, or both, as provided in this subsection. Based on
17 the defendant's ability to pay, the court may also order the
18 defendant to pay the monthly costs or portion thereof for
19 monitoring through the global positioning satellite tracking
20 system."

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



1 "(a) Whenever an order for protection is granted pursuant
2 to this chapter, a respondent or person to be restrained who
3 knowingly or intentionally violates the order for protection is
4 guilty of a misdemeanor. A person convicted under this
5 ~~[section]~~ subsection shall undergo domestic violence
6 intervention at any available domestic violence program as
7 ordered by the court. The court additionally shall sentence a
8 person convicted under this ~~[section]~~ subsection as follows:

9 (1) For a first conviction for violation of the order for
10 protection:

11 (A) That is in the nature of non-domestic abuse, the
12 person may be sentenced to a jail sentence of
13 forty-eight hours and be fined not more than
14 \$150; provided that the court shall not sentence
15 a defendant to pay a fine unless the defendant is
16 or will be able to pay the fine;

17 (B) That is in the nature of domestic abuse, the
18 person shall be sentenced to a mandatory minimum
19 jail sentence of not less than forty-eight hours
20 and be fined not less than \$150 nor more than
21 \$500; provided that the court shall not sentence



1 a defendant to pay a fine unless the defendant is
2 or will be able to pay the fine;

3 (2) For a second conviction for violation of the order for
4 protection:

5 (A) That is in the nature of non-domestic abuse, and
6 occurs after a first conviction for violation of
7 the same order that was in the nature of non-
8 domestic abuse, the person shall be sentenced to
9 a mandatory minimum jail sentence of not less
10 than forty-eight hours and be fined not more than
11 \$250; provided that the court shall not sentence
12 a defendant to pay a fine unless the defendant is
13 or will be able to pay the fine;

14 (B) That is in the nature of domestic abuse, and
15 occurs after a first conviction for violation of
16 the same order that was in the nature of domestic
17 abuse, the person shall be sentenced to a
18 mandatory minimum jail sentence of not less than
19 thirty days and be fined not less than \$250 nor
20 more than \$1,000; provided that the court shall
21 not sentence a defendant to pay a fine unless the
22 defendant is or will be able to pay the fine;



1 (C) That is in the nature of non-domestic abuse, and
2 occurs after a first conviction for violation of
3 the same order that was in the nature of domestic
4 abuse, the person shall be sentenced to a
5 mandatory minimum jail sentence of not less than
6 forty-eight hours and be fined not more than
7 \$250; provided that the court shall not sentence
8 a defendant to pay a fine unless the defendant is
9 or will be able to pay the fine;

10 (D) That is in the nature of domestic abuse, and
11 occurs after a first conviction for violation of
12 the same order that is in the nature of non-
13 domestic abuse, the person shall be sentenced to
14 a mandatory minimum jail sentence of not less
15 than forty-eight hours and be fined not more than
16 \$150; provided that the court shall not sentence
17 a defendant to pay a fine unless the defendant is
18 or will be able to pay the fine;

19 (3) For any subsequent violation that occurs after a
20 second conviction for violation of the same order for
21 protection, the person shall be sentenced to a
22 mandatory minimum jail sentence of not less than



1 thirty days and be fined not less than \$250 nor more
2 than \$1,000; provided that the court shall not
3 sentence a defendant to pay a fine unless the
4 defendant is or will be able to pay the fine.

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

11 The court may suspend any jail sentence under subparagraphs
12 (1) (A) and (2) (C), upon condition that the defendant remain
13 alcohol and drug-free, conviction-free, or complete court-
14 ordered assessments or intervention. Nothing in this [~~section~~]
15 subsection shall be construed as limiting the discretion of the
16 judge to impose additional sanctions authorized in sentencing
17 for a misdemeanor offense. All remedies for the enforcement of
18 judgments shall apply to this chapter.

19 In addition to the penalties provided for in this
20 subsection, as a condition of probation, the court may prohibit
21 contact with the protected party through the establishment of
22 court defined geographic exclusion zones known to the defendant,



1 including the areas in and around the protected party's
2 residence, place of employment, and the protected party's
3 child's school, and order that the defendant wear a global
4 positioning satellite tracking device designed to transmit and
5 record the defendant's location data. If the defendant enters a
6 court defined geographic exclusion zone, the defendant's
7 location data shall be immediately transmitted to the protected
8 party and to the police, through an appropriate means, including
9 the telephone, an electronic beeper, or a paging device. The
10 global positioning satellite tracking device and its tracking
11 shall be administered by the court. If a court finds that the
12 defendant has entered a geographic exclusion zone, it shall
13 revoke the probation and the defendant shall be fined,
14 imprisoned, or both, as provided in this subsection. Based on
15 the defendant's ability to pay, the court may also order the
16 defendant to pay the monthly costs or portion thereof for
17 monitoring through the global positioning satellite tracking
18 system."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.



- 1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 5. This Act shall take effect on January 1, 2009.



Report Title:

Electronic Monitoring; Protective Order Violations

Description:

Requires electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order. Effective 01/01/09. (SB2218 SD1)

