

JAN 24 2013

A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE.

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

1 SECTION 1. Chapter 586, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§586- Permanent protective order. (a) If an order for
5 protection is issued pursuant to section 586-3 or 586-5.5 to
6 prevent any act of abuse or a recurrence of any act of abuse
7 that would constitute a felony offense under part V or VI of
8 chapter 707, the court shall order that the protective order in
9 that regard shall be permanent.

10 (b) If a licensed mental health professional who has
11 examined a person submits an affidavit made under oath or under
12 penalty of perjury to the court stating that the person has been
13 the subject of extreme psychological abuse or that extreme
14 psychological abuse is imminent, the affidavit shall be
15 sufficient grounds for a court to order a permanent protective
16 order.

17 For the purposes of this subsection, "extreme psychological
18 abuse" has the same meaning as in section 586-1.



1 (c) The permanent protective order may include all orders
2 stated in a previous order and may provide for further relief as
3 the court deems necessary to prevent such abuse or a recurrence
4 of such abuse, including orders establishing temporary
5 visitation and custody with regard to minor children of the
6 parties and orders to either or both parties to participate in
7 domestic violence intervention services."

8 SECTION 2. Section 586-1, Hawaii Revised Statutes, is
9 amended by amending the definition of "domestic abuse" to read
10 as follows:

11 "Domestic abuse" means:

- 12 (1) Physical harm, bodily injury, assault, or the threat
13 of imminent physical harm, bodily injury, or assault,
14 extreme psychological abuse or malicious property
15 damage between family or household members; or
16 (2) Any act which would constitute an offense under
17 section 709-906, or under part V or VI of chapter 707
18 committed against a [~~minor~~] family or household member
19 by [~~an adult~~] another family or household member."

20 SECTION 3. Section 586-3, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) A petition for relief shall be in writing upon forms
2 provided by the court and shall allege, under penalty of
3 perjury, that: a past act or acts of domestic abuse may have
4 occurred; threats of abuse make it probable that acts of
5 domestic abuse may be imminent; or extreme psychological abuse
6 or malicious property damage may have occurred or is imminent;
7 and be accompanied by an affidavit made under oath or a
8 statement made under penalty of perjury stating the specific
9 facts and circumstances from which relief is sought."

10 SECTION 4. Section 586-5.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§586-5.5 Protective order; additional orders.** (a) If,
13 after hearing all relevant evidence, the court finds that the
14 respondent has failed to show cause why the temporary
15 restraining order should not be continued and that a protective
16 order is necessary to prevent domestic abuse or a recurrence of
17 abuse, the court may order that a protective order be issued for
18 a further fixed reasonable period as the court deems
19 appropriate[-], except as otherwise specified in section 586- .

20 (b) The protective order issued by the court may include
21 all orders stated in the temporary restraining order and may
22 provide for further relief as the court deems necessary to



1 prevent domestic abuse or a recurrence of abuse, including
2 orders establishing temporary visitation and custody with regard
3 to minor children of the parties and orders to either or both
4 parties to participate in domestic violence intervention
5 services. If the court finds that the party meets the
6 requirements under section 334-59(a)(2), the court further may
7 order that the party be taken to the nearest facility for
8 emergency examination and treatment.

9 [~~(b)~~] (c) A non-permanent protective order may be extended
10 for such further fixed reasonable period as the court deems
11 appropriate. Upon application by a person or agency capable of
12 petitioning under section 586-3, the court shall hold a hearing
13 to determine whether the protective order should be extended.
14 In making a determination, the court shall consider evidence of
15 abuse and threats of abuse that occurred prior to the initial
16 [~~restraining~~] order and whether good cause exists to extend the
17 protective order.

18 (d) The extended protective order may include all orders
19 stated in the preceding [~~restraining~~] protective order and may
20 provide such further relief as the court deems necessary to
21 prevent domestic abuse or a recurrence of abuse, including
22 orders establishing temporary visitation and custody with regard



1 to minor children of the parties and orders to either or both
2 parties to participate in domestic violence intervention
3 services.

4 (e) The court may terminate [~~the extended~~] a protective
5 order at any time with the mutual consent of the parties."

6 SECTION 5. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval.

12

INTRODUCED BY:



By Request



Report Title:

Child Abuse; Permanent Protective Order; Sexual Abuse

Description:

Establishes that if a protective order is issued to prevent sexual offenses or child abuse or a recurrence of such acts that would constitute a felony between family or household members or if a licensed mental health professional submits an affidavit made under oath or under penalty of perjury to a court stating that the person suffers from instances of extreme psychological abuse, the court shall issue a permanent protective order. Amends the definition of domestic abuse to include sexual offenses or child abuse committed by one family or household member against another family or household member.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

