
A BILL FOR AN ACT

RELATING TO PROOF OF DOMESTIC OR SEXUAL VIOLENCE VICTIM STATUS.

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

1 SECTION 1. The legislature finds that certain laws of the
2 State were enacted to assist victims of domestic and sexual
3 violence. For example, certain provisions in the Hawaii Revised
4 Statutes address early termination of a shared cell phone
5 contract or rental agreement by victims. However, the
6 legislature also finds that when victims attempt to obtain
7 assistance under these laws, they must show proof of their
8 victim status. This is complicated by the fact that the types
9 of documents accepted as proof of domestic or sexual violence
10 victim status vary among the different laws, even though the
11 actual substance of the requirements is similar. As a result,
12 victims may be discouraged from trying to seek assistance under
13 these laws.

14 The purpose of this Act is to make consistent the types of
15 documents accepted as proof of domestic or sexual violence
16 victim status.



1 SECTION 2. Section 269-16.93, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All wireless telecommunications service providers
4 shall release, without charge, penalty, or fee, any victim of
5 domestic abuse from a shared or family wireless service contract
6 involving the victim's abuser; provided that the victim submits
7 an opt-out request in writing and with evidence of domestic
8 abuse as documented by any of the following items:

- 9 ~~[(1) Valid police report documenting an instance or series~~
10 ~~of instances of domestic abuse;~~
- 11 ~~(2) Order for protection granted pursuant to chapter 586;~~
12 ~~or~~
- 13 ~~(3) Signed affidavit from a licensed medical or mental~~
14 ~~health care provider, employee of a court acting~~
15 ~~within the scope of their employment, or social~~
16 ~~worker.]~~
- 17 (1) Certified or exemplified restraining orders,
18 injunctions against harassment, and documents from
19 criminal cases;



- 1 (2) Documentation from a victim services organization or
- 2 domestic abuse program, agency, or facility, including
- 3 a shelter or safe house for domestic abuse victims; or
- 4 (3) Documentation from a medical professional, mental
- 5 health care provider, attorney, advocate, social
- 6 worker, or member of the clergy from whom the victim
- 7 has sought assistance in dealing with the alleged
- 8 domestic abuse."

9 SECTION 3. Section 378-2, Hawaii Revised Statutes, is
 10 amended by amending subsection (b) to read as follows:

11 "(b) For purposes of subsection (a)(1):

12 (1) An employer may verify that an employee is a victim of
 13 domestic or sexual violence by requesting that the
 14 employee provide:

15 [~~(A) A signed written statement from a person listed~~
 16 ~~below from whom the employee or the employee's~~
 17 ~~minor child has sought assistance in relation to~~
 18 ~~the domestic or sexual violence.~~

19 ~~(i) An employee, agent, or volunteer of a victim~~
 20 ~~services organization;~~

21 ~~(ii) The employee's attorney or advocate;~~



- 1 ~~(iii) The attorney or advocate of the employee's~~
2 ~~minor child;~~
- 3 ~~(iv) A medical or other health care professional,~~
4 ~~or~~
- 5 ~~(v) A member of the clergy; or~~
- 6 ~~(B) A police or court record supporting the~~
7 ~~occurrence of the domestic or sexual violence;~~
8 ~~and]~~
- 9 (A) Certified or exemplified restraining orders,
10 injunctions against harassment, and documents
11 from criminal cases;
- 12 (B) Documentation from a victim services organization
13 or domestic or sexual violence program, agency,
14 or facility, including a shelter or safe house
15 for victims of domestic or sexual violence; or
- 16 (C) Documentation from a medical professional, mental
17 health care provider, attorney, advocate, social
18 worker, or member of the clergy from whom the
19 employee or the employee's minor child has sought
20 assistance in relation to the domestic or sexual
21 violence; and



1 (2) An employer may verify an employee's status as a
2 domestic or sexual violence victim not more than once
3 every six months following the date the employer:
4 (A) Was provided notice by the employee of the
5 employee's status as a domestic or sexual
6 violence victim;
7 (B) Has actual knowledge of the employee's status as
8 a domestic or sexual violence victim; or
9 (C) Received verification that the employee is a
10 domestic or sexual violence victim;
11 provided that where the employee provides verification
12 in the form of a protective order related to the
13 domestic or sexual violence with an expiration date,
14 the employer may not request any further form of
15 verification of the employee's status as a domestic or
16 sexual violence victim until the date of the
17 expiration or any extensions of the protective order,
18 whichever is later."

19 SECTION 4. Section 378-72, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:



1 "(d) Where an employee has taken not more than five
2 calendar days of leave for non-medical reasons, the employee
3 shall provide certification to the employer in the form of a
4 signed statement within a reasonable period after the employer's
5 request, that the employee or the employee's minor child is a
6 victim of domestic or sexual violence and the leave is for one
7 of the purposes enumerated in subsection (a). If the leave
8 exceeds five days per calendar year, then the certification
9 shall be provided by one of the following methods:

10 ~~[(1) A signed written statement from an employee, agent, or~~
11 ~~volunteer of a victim services organization, from the~~
12 ~~employee's attorney or advocate, from a minor child's~~
13 ~~attorney or advocate, or a medical or other~~
14 ~~professional from whom the employee or the employee's~~
15 ~~minor child has sought assistance related to the~~
16 ~~domestic or sexual violence; or~~

17 ~~(2) A police or court record related to the domestic or~~
18 ~~sexual violence.]~~

19 (1) Certified or exemplified restraining orders,
20 injunctions against harassment, and documents from
21 criminal cases;



1 (2) Documentation from a victim services organization or
2 domestic or sexual violence program, agency, or
3 facility, including a shelter or safe house for
4 victims of domestic or sexual violence; or

5 (3) Documentation from a medical professional, mental
6 health care provider, attorney, advocate, social
7 worker, or member of the clergy from whom the employee
8 or the employee's minor child has sought assistance in
9 relation to the domestic or sexual violence."

10 SECTION 5. Section 383-7.6, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) The department may request as reasonable and
13 confidential documentation under subsection (a)(1) the following
14 evidence:

15 (1) A notarized written statement of the individual
16 attesting to the status of the individual or the
17 individual's minor child as a victim of domestic or
18 sexual violence and explaining how continued
19 employment creates an unreasonable risk of further
20 violence;



- 1 (2) A signed written statement from:
- 2 (A) ~~[An employee, agent, or volunteer of a victim~~
- 3 ~~services organization,~~
- 4 ~~(B) The individual's attorney or advocate,~~
- 5 ~~(C) A minor child's attorney or advocate, or~~
- 6 ~~(D) A medical or other professional from whom the~~
- 7 ~~individual or the individual's minor child has~~
- 8 ~~sought assistance related to the domestic or~~
- 9 ~~sexual violence,]~~ A victim services organization
- 10 or domestic or sexual violence program, agency,
- 11 or facility, including a shelter or safe house
- 12 for victims of domestic or sexual violence; or
- 13 (B) A medical professional, mental health care
- 14 provider, attorney, advocate, social worker, or
- 15 member of the clergy from whom the individual or
- 16 the individual's minor child has sought
- 17 assistance in relation to the domestic or sexual
- 18 violence,
- 19 attesting to the domestic or sexual violence and
- 20 explaining how the continued employment creates an
- 21 unreasonable risk of further violence; or



1 (3) ~~[A police or court record]~~ Certified or exemplified
2 restraining orders, injunctions against harassment,
3 and documents from criminal cases, suggesting or
4 demonstrating that the continued employment may cause
5 an unreasonable risk of further violence."

6 SECTION 6. Section 383-30.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In applying the provisions of section 383-30(1), an
9 individual who has established eligibility based on full-time
10 employment may be found to have good cause for voluntarily
11 separating from subsequent part-time employment based on any of
12 the following conditions:

13 (1) Loss of full-time work with a regular employer made it
14 economically unfeasible to continue part-time
15 employment;

16 (2) The part-time employment was outside the individual's
17 customary occupation and would not have been
18 considered suitable work at the time the individual
19 accepted part-time employment. In determining whether
20 an individual is reasonably fitted for a particular
21 job, the department shall consider:



- 1 (A) The degree of risk involved to the individual's
- 2 health, safety, and morals;
- 3 (B) The individual's physical fitness;
- 4 (C) The individual's prior training;
- 5 (D) The individual's experience;
- 6 (E) The individual's prior earnings;
- 7 (F) The length of the individual's unemployment;
- 8 (G) The individual's prospects for obtaining work in
- 9 the individual's customary occupation;
- 10 (H) The distance of available work from the
- 11 individual's residence; and
- 12 (I) The individual's prospects for obtaining local
- 13 work.

14 As used in this paragraph, "suitable work" means work
15 in the individual's usual occupation or work for which
16 the individual is reasonably fitted;

- 17 (3) The employer failed to provide sufficient advance
- 18 notice of a work schedule change;
- 19 (4) There was a work schedule conflict with other
- 20 concurrent part-time or full-time employment;



- 1 (5) A real, substantial, or compelling reason, or a reason
2 that would cause a reasonable and prudent employee,
3 genuinely and sincerely desirous of maintaining
4 employment, to take similar action and to try
5 reasonable alternatives before terminating the
6 employment relationship;
- 7 (6) Change in working conditions and the change is
8 prejudicial or detrimental to the health, safety, or
9 morals of the employee;
- 10 (7) Change in terms and conditions of employment,
11 including change in rate of pay, position or grade,
12 duties, days of work, or hours of work;
- 13 (8) Discrimination that violates federal or state laws
14 regarding equal employment opportunity practices;
- 15 (9) Change in the employee's marital or domestic status;
- 16 (10) Acceptance of a definite, firm offer made of other
17 employment where the offer is subsequently withdrawn
18 and the former employer refuses to rehire the
19 employee;
- 20 (11) Retirement under a mandatory requirement imposed by a
21 collective bargaining agreement;



1 (12) Evidence that the employee was a victim of domestic or
2 sexual violence, including any circumstance that
3 causes a reasonable employee to believe that other
4 available alternatives, such as a leave of absence, a
5 transfer of jobs, or an alternate work schedule, would
6 not be sufficient to guarantee the safety of the
7 employee and that separation from employment was
8 necessary to address the resulting physical and
9 psychological effects, to seek or reside in an
10 emergency shelter, or to avoid future domestic or
11 sexual violence. Evidence includes [~~police records,~~
12 ~~court records, statements from the individual, a~~
13 ~~volunteer of a victim services organization, the~~
14 ~~employee's attorney or advocate, a member of the~~
15 ~~clergy, medical, or other professional from whom the~~
16 ~~employee has sought assistance related to the domestic~~
17 ~~or sexual violence, or other corroborating evidence.]:
18 (A) Certified or exemplified restraining orders,
19 injunctions against harassment, and documents
20 from criminal cases;~~



1 (B) Documentation from a victim services organization
2 or domestic or sexual violence program, agency,
3 or facility, including a shelter or safe house
4 for victims of domestic or sexual violence;

5 (C) Documentation from a medical professional, mental
6 health care provider, attorney, advocate, social
7 worker, or member of the clergy from whom the
8 employee has sought assistance in relation to the
9 domestic or sexual violence; or

10 (D) Statements from the individual, or other
11 corroborating evidence.

12 As used in this paragraph, "domestic or sexual
13 violence" includes domestic abuse, sexual assault, or
14 stalking; or

15 (13) Any other factor relevant to a determination of good
16 cause."

17 SECTION 7. Section 521-80, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) A tenant may terminate a rental agreement of a term
20 of one year or less without penalty or fees for early
21 termination or liability for future rent if the tenant or an



1 immediate family member of the tenant residing at the dwelling
2 unit has been the victim of domestic violence during the ninety
3 days preceding the date the notice of early termination is
4 provided to the landlord. The notice shall be given at least
5 fourteen days prior to the early termination date specified in
6 the notice, which shall be no more than one hundred four days
7 from the date of the most recent act of domestic violence. The
8 notice shall be accompanied by one of the following documents:

- 9 ~~[(1) A copy of a valid order of protection issued by a~~
10 ~~court of any state to the tenant or immediate family~~
11 ~~member of the tenant as a result of the tenant or the~~
12 ~~immediate family member of the tenant having been a~~
13 ~~victim of domestic violence;~~
- 14 ~~(2) A copy of a police report filed with an agency of any~~
15 ~~state that states that the tenant or immediate family~~
16 ~~member of the tenant was a victim of domestic~~
17 ~~violence; or~~
- 18 ~~(3) A copy of the conviction of a person for an act of~~
19 ~~domestic violence against the tenant or immediate~~
20 ~~family member of the tenant.]~~



- 1 (1) Certified or exemplified restraining orders,
2 injunctions against harassment, and documents from
3 criminal cases;
- 4 (2) Documentation from a victim services organization or
5 domestic violence program, agency, or facility,
6 including a shelter or safe house for victims of
7 domestic violence; or
- 8 (3) Documentation from a medical professional, mental
9 health care provider, attorney, advocate, social
10 worker, or member of the clergy from whom the victim
11 has sought assistance in relation to the domestic
12 violence.

13 The tenant shall also provide to the landlord a written
14 statement, which describes that the tenant reasonably believes
15 that the person who committed the domestic violence knows the
16 address or location where the tenant or immediate family member
17 of the tenant resides, unless the person who committed the
18 domestic violence resides in the same dwelling unit."

19 SECTION 8. Section 801G-3, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) The application shall be as prescribed by the program
2 director and shall contain the following:

3 (1) The primary applicant's name;

4 (2) A statement by the primary applicant that the primary
5 applicant is a victim of domestic abuse, a sexual
6 offense, or stalking and that the primary applicant
7 fears for the primary applicant's safety;

8 (3) Evidence that the primary applicant is a victim of
9 domestic abuse, a sexual offense, or stalking,
10 including any of the following:

11 (A) Records or files of a court or government agency
12 including but not limited to police reports,
13 valid restraining orders, injunctions against
14 harassment, and documents from criminal cases;

15 (B) Documentation from a domestic abuse program,
16 agency, or facility including ~~[but not limited~~
17 ~~to]~~ a ~~[women's]~~ shelter or safe house~~[+]~~ for
18 domestic abuse victims;

19 (C) Documentation from a sexual assault program; ~~[or]~~

20 (D) Documentation from a medical professional, mental
21 health care provider, ~~[or other class of~~



1 ~~professionals designated by the program director]~~
2 attorney, advocate, social worker, or member of
3 the clergy from whom the primary applicant has
4 sought assistance in dealing with the alleged
5 domestic abuse, sexual offense, or stalking; or
6 (E) Documentation from a victim services
7 organization;

8 (4) A statement by the primary applicant that disclosure
9 of the primary applicant's actual address will
10 endanger the primary applicant's safety;

11 (5) A statement by the primary applicant that the primary
12 applicant has confidentially relocated to an address
13 in the State or will relocate to an address in the
14 State within thirty days of the date of application
15 and will not disclose the location to assailants or
16 known potential assailants;

17 (6) The primary applicant's written consent that the
18 program shall serve as the agent for the primary
19 applicant for purposes of service of process and
20 receiving mail;



- 1 (7) The mailing address and telephone number where the
2 primary applicant may be contacted by the program;
- 3 (8) The actual address of the primary applicant;
- 4 (9) A statement as to whether there is any existing court
5 order or court action involving the primary applicant
6 or an individual identified in paragraph (10) related
7 to dissolution of marriage proceedings, child support,
8 or the allocation of parental responsibilities or
9 parenting time, including the court that issued the
10 order or has jurisdiction over the action;
- 11 (10) The name of any person who resides with the primary
12 applicant who may apply as a secondary applicant
13 pursuant to section 801G-4 to ensure the safety of the
14 primary applicant;
- 15 (11) The primary applicant's sworn statement that the
16 information contained in the application is true;
- 17 (12) The application assistant's statement that the
18 application assistant has met with and discussed the
19 application with the primary applicant and that the
20 application assistant recommends that the primary
21 applicant be assigned a substitute address; and



1 (13) The date and signature of the primary applicant, the
2 application assistant, and, if applicable, the primary
3 applicant's parent or guardian."

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

6 SECTION 10. This Act shall take effect on December 31,
7 2059.



Report Title:

Domestic Violence; Sexual Violence; Victims; Proof of Status

Description:

Makes consistent the types of documents accepted as proof of domestic or sexual violence victim status. Takes effect 12/31/2059. (HD1)

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

