

NEIL ABERCROMBIE  
GOVERNOR



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For Immediate Release: January 26, 2011

News Release 2011-1

### HAWAII LAW ENFORCEMENT COALITION ANNOUNCES 2011 LEGISLATIVE PACKAGE

HONOLULU – The Hawai'i Law Enforcement Coalition today announced a legislative package of two bills designed to protect the public from serious violent crimes and protect victims of domestic violence.

The Coalition comprises the Attorney General, the Prosecuting Attorneys and Police Chiefs of Hawai'i's four counties, and the United States Attorney for the District of Hawai'i. The Coalition supports measures to protect the public and restore balance in Hawai'i's criminal justice system. Each of the bills in the Coalition's legislative package has the unanimous support of every Coalition member.

#### **Murder** (SB 1229, HB 1002)

- Amends the offense of Murder in the Second Degree to include acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, when those acts result in death.

"Offenders who kill a person should not have the ability to avoid murder convictions by claiming they were only trying to cause serious injury, not death," said Attorney General David Louie. "This bill will result in individuals being appropriately punished for their crimes, and will make it less likely that particularly violent offenders will be released early and allowed to kill again."

#### **Domestic Violence** (SB 1230, HB 1003)

- Provides greater protection to victims of domestic violence by raising the seriousness of violent offenses committed against victims whom the courts or police are attempting to keep safe through protective orders.

Victims of domestic violence often endure extended periods of physical and mental abuse, intimidation, harassment, terrorization, and too often are killed by their tormentors. Even with intervention by the police and the court system, the abuse and violence may not end. Current laws do not provide adequate protection or deterrence. This bill will help.

The bill amends the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree by raising the level of each offense when the offense is committed against victims who have obtained certain types of protective orders, by those who are the subjects of the protective orders. Thus, what

was misdemeanor assault will become felony assault if committed by a person against whom the victim has obtained a certain type of protective order. Misdemeanor terroristic threatening will become felony terroristic threatening, manslaughter will become second degree murder, and second degree murder will become first degree murder.

"Victims of domestic violence who have the courage to seek help from the court system and the police must be protected. This bill will help to deter violence against this vulnerable class of victims. The bill will make it easier for the courts to prevent offenders from committing further violence," Attorney General David Louie said.

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For more information, contact:  
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[www.hawaii.gov/ag](http://www.hawaii.gov/ag)

JAN 26 2011

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A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. Section 707-701.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~[+]~~§707-701.5~~[+]~~ **Murder in the second degree.**

4 (1) Except as provided in section 707-701, a person commits the  
5 offense of murder in the second degree if the person  
6 ~~[intentionally]~~:

7 (a) Intentionally or knowingly causes the death of another  
8 person~~[-]~~; or

9 (b) With the intent to do serious bodily injury to any  
10 person, performs acts that cause the death of that  
11 person; or

12 (c) Intentionally or knowingly performs acts that create a  
13 strong probability of death to any person, and such  
14 acts cause the death of another person; or

15 (d) Intentionally or knowingly performs acts that create a  
16 strong probability of serious bodily injury to any  
17 person, and such acts cause the death of another  
18 person.

S.B. NO. 1229

1 (2) Murder in the second degree is a felony for which the  
2 defendant shall be sentenced to imprisonment as provided in  
3 section 706-656."

4 SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: S.B.T.2.

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BY REQUEST

**Report Title:**

Criminal Homicide

**Description:**

Includes in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, which result in the death of another person.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To include in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, and which result in the death of that person.

MEANS: Amend section 707-701.5, Hawaii Revised Statutes.

JUSTIFICATION: Section 707-700, Hawaii Revised Statutes, defines "serious bodily injury" as "bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." This bill provides that individuals who act with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, and whose act results in the death of that other person, should be guilty of murder in the second degree. An individual, who intentionally commits such acts against another person and by such acts causes that person's death, should be held responsible for committing murder. Such an individual should not be allowed to avoid responsibility for the victim's death by arguing that the individual only intended to cause serious bodily injury, and not death. The following are a few case examples that illustrate the importance of the provisions of this bill.

In 1987, Alexander "Boy" Carvalho brutally beat his wife to death. The beating lasted

for an hour and a half. In addition to punching and kicking her, he beat her with a piece of 2x4 lumber and a large Maglite flashlight. He also jumped onto her body from a raised platform. When he got tired, he took three breaks from the beating. He only stopped when his wife's nephew shot off a rifle to chase him away. He broke forty-four bones in her body. He broke her nose, her arms, and several of her ribs, which punctured her lungs. In the hospital, his wife bled to death after running the blood bank dry of twelve gallons of fluid. Carvalho argued that he never intended to kill her. Despite the brutality of the beating, Carvalho was acquitted of murder and convicted of the lesser offense of manslaughter. After serving only eight years in prison for his wife's death, Carvalho was paroled. Within one year, Carvalho was prosecuted for battering his new girlfriend. Like many domestic violence victims, she recanted the allegations at trial.

In 1995, 17-year-old Emanuelu Tunoa and two others viciously beat another 17-year-old boy to death. The victim had wanted to leave the gang, and was repeatedly punched and kicked to the head. He died a few days later of bleeding in his brain. The defendants claimed that they did not intend to kill the victim and had planned on remaining friends after he left the gang. Although prosecuted for murder, all three defendants were convicted of lesser charges. Tunoa was convicted of assault in the second degree, a class C felony, and sentenced to four years in prison. After his release, Tunoa murdered another man with shotgun blasts to his chest, face, and back. Tunoa was convicted of this murder in 2005.

In 2008, Glenn Keohokapu, Jr. killed 19-year-old Steven Wilcox by stabbing him in the heart. Keohokapu was engaged in an argument with his wife outside of a bar.

Wilcox approached him to intervene. While others stepped in to try to keep Keohokapu and Wilcox apart, Keohokapu obtained a knife and stabbed the teenager. Although he was charged with murder, Keohokapu was convicted of the lesser offense of manslaughter.

With the proposed amendment in this bill, the outcome in the trials of these cases, and the many other cases like them, could have been different.

Impact on the public: The amendment to the murder in the second degree statute will result in individuals being appropriately punished for their crimes and will provide greater deterrence, foster public confidence, and promote public safety.

Impact on the department and other agencies: The amendment will clarify the application of the offense of murder in the second degree for prosecutors, public defenders, and the Judiciary.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	Judiciary, county police, county prosecutors, and the Office of the Public Defender.
EFFECTIVE DATE:	Upon approval.

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A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. Section 707-701.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]\$707-701.5[~~f~~] **Murder in the second degree.**

4 (1) Except as provided in section 707-701, a person commits the  
5 offense of murder in the second degree if the person  
6 [~~intentionally~~]:

7 (a) Intentionally or knowingly causes the death of another  
8 person[~~-~~]; or

9 (b) With the intent to do serious bodily injury to any  
10 person, performs acts that cause the death of that  
11 person; or

12 (c) Intentionally or knowingly performs acts that create a  
13 strong probability of death to any person, and such  
14 acts cause the death of another person; or

15 (d) Intentionally or knowingly performs acts that create a  
16 strong probability of serious bodily injury to any  
17 person, and such acts cause the death of another  
18 person.

H .B. NO. 1002

1           (2) Murder in the second degree is a felony for which the  
2 defendant shall be sentenced to imprisonment as provided in  
3 section 706-656."

4           SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Calvin K. Ay

BY REQUEST

JAN 24 2011

**Report Title:**

Criminal Homicide

**Description:**

Includes in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, which result in the death of another person.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To include in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, and which result in the death of that person.

MEANS: Amend section 707-701.5, Hawaii Revised Statutes.

JUSTIFICATION: Section 707-700, Hawaii Revised Statutes, defines "serious bodily injury" as "bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." This bill provides that individuals who act with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, and whose act results in the death of that other person, should be guilty of murder in the second degree. An individual, who intentionally commits such acts against another person and by such acts causes that person's death, should be held responsible for committing murder. Such an individual should not be allowed to avoid responsibility for the victim's death by arguing that the individual only intended to cause serious bodily injury, and not death. The following are a few case examples that illustrate the importance of the provisions of this bill.

In 1987, Alexander "Boy" Carvalho brutally beat his wife to death. The beating lasted

for an hour and a half. In addition to punching and kicking her, he beat her with a piece of 2x4 lumber and a large Maglite flashlight. He also jumped onto her body from a raised platform. When he got tired, he took three breaks from the beating. He only stopped when his wife's nephew shot off a rifle to chase him away. He broke forty-four bones in her body. He broke her nose, her arms, and several of her ribs, which punctured her lungs. In the hospital, his wife bled to death after running the blood bank dry of twelve gallons of fluid. Carvalho argued that he never intended to kill her. Despite the brutality of the beating, Carvalho was acquitted of murder and convicted of the lesser offense of manslaughter. After serving only eight years in prison for his wife's death, Carvalho was paroled. Within one year, Carvalho was prosecuted for battering his new girlfriend. Like many domestic violence victims, she recanted the allegations at trial.

In 1995, 17-year-old Emanuelu Tunoa and two others viciously beat another 17-year-old boy to death. The victim had wanted to leave the gang, and was repeatedly punched and kicked to the head. He died a few days later of bleeding in his brain. The defendants claimed that they did not intend to kill the victim and had planned on remaining friends after he left the gang. Although prosecuted for murder, all three defendants were convicted of lesser charges. Tunoa was convicted of assault in the second degree, a class C felony, and sentenced to four years in prison. After his release, Tunoa murdered another man with shotgun blasts to his chest, face, and back. Tunoa was convicted of this murder in 2005.

In 2008, Glenn Keohokapu, Jr. killed 19-year-old Steven Wilcox by stabbing him in the heart. Keohokapu was engaged in an argument with his wife outside of a bar.

Wilcox approached him to intervene. While others stepped in to try to keep Keohokapu and Wilcox apart, Keohokapu obtained a knife and stabbed the teenager. Although he was charged with murder, Keohokapu was convicted of the lesser offense of manslaughter.

With the proposed amendment in this bill, the outcome in the trials of these cases, and the many other cases like them, could have been different.

Impact on the public: The amendment to the murder in the second degree statute will result in individuals being appropriately punished for their crimes and will provide greater deterrence, foster public confidence, and promote public safety.

Impact on the department and other agencies: The amendment will clarify the application of the offense of murder in the second degree for prosecutors, public defenders, and the Judiciary.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Judiciary, county police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: Upon approval.

# S.B. NO. 1230

JAN 26 2011

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## A BILL FOR AN ACT

RELATING TO THE PENAL CODE:

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

1           SECTION 1. This Act shall be known as the "Protect Victims  
2 of Domestic Violence Act."

3           SECTION 2. Section 707-701, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5           "(1) A person commits the offense of murder in the first  
6 degree if the person intentionally or knowingly causes the death  
7 of:

8           (a) More than one person in the same or separate incident;

9           (b) A law enforcement officer, judge, or prosecutor  
10 arising out of the performance of official duties;

11           (c) A person known by the defendant to be a witness in a  
12 criminal prosecution and the killing is related to the  
13 person's status as a witness;

14           (d) A person by a hired killer, in which event both the  
15 person hired and the person responsible for hiring the  
16 killer shall be punished under this section; [~~or~~]

17           (e) A person while the defendant was imprisoned[~~-~~];

S.B. NO. 1230

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- (f) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or
- (g) A person who is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order."

SECTION 3. Section 707-701.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of murder in the second degree if:

- (a) Except as provided in section 707-701, [~~a person commits the offense of murder in the second degree if~~] the person intentionally or knowingly causes the death of another person~~[-]~~; or
- (b) The person recklessly causes the death of:
  - (i) A person who the defendant has been restrained, by order of any court, including an ex parte order, from contacting, threatening, or physically abusing pursuant to chapter 586; or

S.B. NO. 1230

1           (ii) A person who is being protected by a police  
2           officer ordering the defendant to leave the  
3           premises of that protected person pursuant to  
4           section 709-906(4), during the effective period  
5           of that order."

6           SECTION 4. Section 707-711, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8           "(1) A person commits the offense of assault in the second  
9 degree if:

- 10           (a) The person intentionally or knowingly causes  
11           substantial bodily injury to another;
- 12           (b) The person recklessly causes serious or substantial  
13           bodily injury to another;
- 14           (c) The person intentionally or knowingly causes bodily  
15           injury to a correctional worker, as defined in section  
16           710-1031(2), who is engaged in the performance of duty  
17           or who is within a correctional facility;
- 18           (d) The person intentionally or knowingly causes bodily  
19           injury to another with a dangerous instrument;
- 20           (e) The person intentionally or knowingly causes bodily  
21           injury to an educational worker who is engaged in the  
22           performance of duty or who is within an educational

S.B. NO. 1230

1 facility. For the purposes of this paragraph,  
2 "educational worker" means: any administrator,  
3 specialist, counselor, teacher, or employee of the  
4 department of education or an employee of a charter  
5 school; a person who is a volunteer, as defined in  
6 section 90-1, in a school program, activity, or  
7 function that is established, sanctioned, or approved  
8 by the department of education; or a person hired by  
9 the department of education on a contractual basis and  
10 engaged in carrying out an educational function;

11 (f) The person intentionally or knowingly causes  
12 bodily injury to any emergency medical services  
13 provider who is engaged in the performance of duty.  
14 For the purposes of this paragraph, "emergency medical  
15 services provider" means emergency medical services  
16 personnel, as defined in section 321-222, and  
17 physicians, physician's assistants, nurses, nurse  
18 practitioners, certified registered nurse  
19 anesthetists, respiratory therapists, laboratory  
20 technicians, radiology technicians, and social  
21 workers, providing services in the emergency room of a  
22 hospital; [~~or~~]

S.B. NO. 1230

1 (g) The person intentionally or knowingly causes bodily  
2 injury to a person employed at a state-operated or  
3 -contracted mental health facility. For the purposes  
4 of this paragraph, "a person employed at a state-  
5 operated or -contracted mental health facility"  
6 includes health care professionals as defined in  
7 section 451D-2, administrators, orderlies, security  
8 personnel, volunteers, and any other person who is  
9 engaged in the performance of a duty at a state-  
10 operated or -contracted mental health facility[-]; or

11 (h) The person intentionally, knowingly, or recklessly  
12 causes bodily injury to:

13 (i) A person who the defendant has been restrained,  
14 by order of any court, including an ex parte  
15 order, from contacting, threatening, or  
16 physically abusing pursuant to chapter 586; or

17 (ii) A person who is being protected by a police  
18 officer ordering the defendant to leave the  
19 premises of that protected person pursuant to  
20 section 709-906(4), during the effective period  
21 of that order."

22 SECTION 5. Section 707-716, Hawaii Revised Statutes, is

1 amended by amending subsection (1) to read as follows:

2 "(1) A person commits the offense of terroristic  
3 threatening in the first degree if the person commits  
4 terroristic threatening:

5 (a) By threatening another person on more than one  
6 occasion for the same or a similar purpose;

7 (b) By threats made in a common scheme against different  
8 persons;

9 (c) Against a public servant arising out of the  
10 performance of the public servant's official duties.  
11 For the purposes of this paragraph, "public servant"  
12 includes but is not limited to an educational worker.  
13 "Educational worker" has the same meaning as defined  
14 in section 707-711;

15 (d) Against any emergency medical services provider who is  
16 engaged in the performance of duty. For the purposes  
17 of this paragraph, "emergency medical services  
18 provider" means emergency medical services personnel,  
19 as defined in section 321-222, and physicians,  
20 physician's assistants, nurses, nurse practitioners,  
21 certified registered nurse anesthetists, respiratory  
22 therapists, laboratory technicians, radiology

S.B. NO. 1230

1 technicians, and social workers, providing services in  
2 the emergency room of a hospital; [~~or~~]

3 (e) With the use of a dangerous instrument [~~+~~]; or

4 (f) By threatening:

5 (i) A person who the defendant has been restrained,  
6 by order of any court, including an ex parte  
7 order, from contacting, threatening, or  
8 physically abusing pursuant to chapter 586; or

9 (ii) A person who is being protected by a police  
10 officer ordering the defendant to leave the  
11 premises of that protected person pursuant to  
12 section 709-906(4), during the effective period  
13 of that order."

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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

17  
18 INTRODUCED BY: AS.TZ.

19 BY REQUEST

**Report Title:**

Penal Code; Domestic Violence Victim Protection.

**Description:**

To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

MEANS: Amend sections 707-701(1), 707-701.5(1), 707-711(1), and 707-716(1), Hawaii Revised Statutes.

JUSTIFICATION: This bill will help deter violence against a particularly vulnerable class of victims in high risk situations. Victims of domestic violence often endure extended periods of mental abuse, intimidation, harassment, terrorization, and physical violence before they reach out for help. It can take a great deal of courage, strength, and desperation to seek the help of the police, the court system, and others. And often, even with intervention by the police and judges, the abuse and violence do not end. Current laws do not provide an adequate deterrent. This bill is intended to do that.

This bill, the "Protect Victims of Domestic Violence Act," amends the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree to include conduct committed against victims who the courts and police are attempting to keep safe with protective orders. It makes clear that crimes against these victims are very serious. It is intended to provide a greater deterrent to such violence against a particularly vulnerable class of victims in a high risk situation. When these victims

cry for help, they should be able to get the protection that they are seeking and be safe from their abusers.

Impact on the public: Victims of domestic violence are more likely to seek help from the police and the courts and actually get that help, if the abusers are deterred from violating protective orders for fear of harsh criminal prosecution.

Impact on the department and other agencies: Hopefully, there will be more victims seeking protection of the police and courts; and there will be fewer crimes of domestic violence against those victims.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

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**A BILL FOR AN ACT**

RELATING TO THE PENAL CODE.

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

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2 of Domestic Violence Act."

3       SECTION 2. Section 707-701, Hawaii Revised Statutes, is  
4 amended by amending subsection (1) to read as follows:

5       "(1) A person commits the offense of murder in the first  
6 degree if the person intentionally or knowingly causes the death  
7 of:

8       (a) More than one person in the same or separate incident;

9       (b) A law enforcement officer, judge, or prosecutor

10       arising out of the performance of official duties;

11       (c) A person known by the defendant to be a witness in a  
12       criminal prosecution and the killing is related to the  
13       person's status as a witness;

14       (d) A person by a hired killer, in which event both the  
15       person hired and the person responsible for hiring the  
16       killer shall be punished under this section; [~~or~~]

17       (e) A person while the defendant was imprisoned[~~ed~~];

H.B. NO. 1003

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(f) A person who the defendant has been restrained,  
by order of any court, including an ex parte order,  
from contacting, threatening, or physically abusing  
pursuant to chapter 586; or

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(g) A person who is being protected by a police officer  
ordering the defendant to leave the premises of that  
protected person pursuant to section 709-906(4),  
during the effective period of that order."

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SECTION 3. Section 707-701.5, Hawaii Revised Statutes, is  
amended by amending subsection (1) to read as follows:

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"(1) A person commits the offense of murder in the second  
degree if:

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(a) Except as provided in section 707-701, [~~a person~~  
~~commits the offense of murder in the second~~  
~~degree if]~~ the person intentionally or knowingly  
causes the death of another person[-]; or

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(b) The person recklessly causes the death of:

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(i) A person who the defendant has been restrained,  
by order of any court, including an ex parte  
order, from contacting, threatening, or  
physically abusing pursuant to chapter 586; or

H.B. NO. 1003

1           (ii) A person who is being protected by a police  
2                   officer ordering the defendant to leave the  
3                   premises of that protected person pursuant to  
4                   section 709-906(4), during the effective period  
5                   of that order."

6           SECTION 4. Section 707-711, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8           "(1) A person commits the offense of assault in the second  
9 degree if:

- 10           (a) The person intentionally or knowingly causes  
11                   substantial bodily injury to another;
- 12           (b) The person recklessly causes serious or substantial  
13                   bodily injury to another;
- 14           (c) The person intentionally or knowingly causes bodily  
15                   injury to a correctional worker, as defined in section  
16                   710-1031(2), who is engaged in the performance of duty  
17                   or who is within a correctional facility;
- 18           (d) The person intentionally or knowingly causes bodily  
19                   injury to another with a dangerous instrument;
- 20           (e) The person intentionally or knowingly causes bodily  
21                   injury to an educational worker who is engaged in the  
22                   performance of duty or who is within an educational

H.B. NO. 1003

1 facility. For the purposes of this paragraph,  
2 "educational worker" means: any administrator,  
3 specialist, counselor, teacher, or employee of the  
4 department of education or an employee of a charter  
5 school; a person who is a volunteer, as defined in  
6 section 90-1, in a school program, activity, or  
7 function that is established, sanctioned, or approved  
8 by the department of education; or a person hired by  
9 the department of education on a contractual basis and  
10 engaged in carrying out an educational function;

11 (f) The person intentionally or knowingly causes  
12 bodily injury to any emergency medical services  
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15 services provider" means emergency medical services  
16 personnel, as defined in section 321-222, and  
17 physicians, physician's assistants, nurses, nurse  
18 practitioners, certified registered nurse  
19 anesthetists, respiratory therapists, laboratory  
20 technicians, radiology technicians, and social  
21 workers, providing services in the emergency room of a  
22 hospital; [ex]

1 (g) The person intentionally or knowingly causes bodily  
2 injury to a person employed at a state-operated or  
3 -contracted mental health facility. For the purposes  
4 of this paragraph, "a person employed at a state-  
5 operated or -contracted mental health facility"  
6 includes health care professionals as defined in  
7 section 451D-2, administrators, orderlies, security  
8 personnel, volunteers, and any other person who is  
9 engaged in the performance of a duty at a state-  
10 operated or -contracted mental health facility[~~-~~]; or

11 (h) The person intentionally, knowingly, or recklessly  
12 causes bodily injury to:

13 (i) A person who the defendant has been restrained,  
14 by order of any court, including an ex parte  
15 order, from contacting, threatening, or  
16 physically abusing pursuant to chapter 586; or

17 (ii) A person who is being protected by a police  
18 officer ordering the defendant to leave the  
19 premises of that protected person pursuant to  
20 section 709-906(4), during the effective period  
21 of that order."

22 SECTION 5. Section 707-716, Hawaii Revised Statutes, is

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1 amended by amending subsection (1) to read as follows:

2 "(1) A person commits the offense of terroristic  
3 threatening in the first degree if the person commits  
4 terroristic threatening:

5 (a) By threatening another person on more than one  
6 occasion for the same or a similar purpose;

7 (b) By threats made in a common scheme against different  
8 persons;

9 (c) Against a public servant arising out of the  
10 performance of the public servant's official duties.  
11 For the purposes of this paragraph, "public servant"  
12 includes but is not limited to an educational worker.  
13 "Educational worker" has the same meaning as defined  
14 in section 707-711;

15 (d) Against any emergency medical services provider who is  
16 engaged in the performance of duty. For the purposes  
17 of this paragraph, "emergency medical services  
18 provider" means emergency medical services personnel,  
19 as defined in section 321-222, and physicians,  
20 physician's assistants, nurses, nurse practitioners,  
21 certified registered nurse anesthetists, respiratory  
22 therapists, laboratory technicians, radiology

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1 technicians, and social workers, providing services in  
2 the emergency room of a hospital; [e#]

3 (e) With the use of a dangerous instrument[-]; or

4 (f) By threatening:

5 (i) A person who the defendant has been restrained,  
6 by order of any court, including an ex parte  
7 order, from contacting, threatening, or  
8 physically abusing pursuant to chapter 586; or

9 (ii) A person who is being protected by a police  
10 officer ordering the defendant to leave the  
11 premises of that protected person pursuant to  
12 section 709-906(4), during the effective period  
13 of that order."

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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

17  
18  
19

INTRODUCED BY: Calvin K. ...  
BY REQUEST

JAN 24 2011

**Report Title:**

Penal Code; Domestic Violence Victim Protection.

**Description:**

To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To provide greater protections to victims of domestic violence who the court is already attempting to keep safe through protective orders.

MEANS: Amend sections 707-701(1), 707-701.5(1), 707-711(1), and 707-716(1), Hawaii Revised Statutes.

JUSTIFICATION: This bill will help deter violence against a particularly vulnerable class of victims in high risk situations. Victims of domestic violence often endure extended periods of mental abuse, intimidation, harassment, terrorization, and physical violence before they reach out for help. It can take a great deal of courage, strength, and desperation to seek the help of the police, the court system, and others. And often, even with intervention by the police and judges, the abuse and violence do not end. Current laws do not provide an adequate deterrent. This bill is intended to do that.

This bill, the "Protect Victims of Domestic Violence Act," amends the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree to include conduct committed against victims who the courts and police are attempting to keep safe with protective orders. It makes clear that crimes against these victims are very serious. It is intended to provide a greater deterrent to such violence against a particularly vulnerable class of victims in a high risk situation. When these victims

cry for help, they should be able to get the protection that they are seeking and be safe from their abusers.

Impact on the public: Victims of domestic violence are more likely to seek help from the police and the courts and actually get that help, if the abusers are deterred from violating protective orders for fear of harsh criminal prosecution.

Impact on the department and other agencies: Hopefully, there will be more victims seeking protection of the police and courts; and there will be fewer crimes of domestic violence against those victims.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.