



Compendium of U.S. Animal Protection Laws

Hawaii



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This chapter contains Hawaii’s general animal protection and related statutes with an effective date on or before September 1, 2023. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.

Hawaii may employ similar provisions within other non-animal-specific criminal and civil statutes, may have other more specific statutes in addition to those included, and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ANIMAL PROTECTION LAWS OF HAWAII

Hawaii Laws

SUBSTANTIVE PROHIBITIONS AND EXEMPTIONS

1. Definition of "Animal"	<p>"Animal" includes every living creature, except a human being. HAW. REV. STAT. § 711-1100</p>
2. General Cruelty	<p>Abandonment. HAW. REV. STAT. § 143-2.6 <i>Petty misdemeanor</i></p> <p>Definitions. HAW. REV. STAT. § 711-1100</p> <p>Cruelty to animals in the 1st degree. HAW. REV. STAT. § 711-1108.5(1) <i>Class C felony</i></p> <p>Cruelty to animals in the 2nd degree. HAW. REV. STAT. § 711-1109(1) <i>Generally: misdemeanor</i> <i>10 or more pet animals: Class C felony</i></p> <p>Pet animal or equine animal desertion. HAW. REV. STAT. § 711-1109.7(1) <i>Generally: Petty misdemeanor</i> <i>If the animal suffers death or substantial bodily injury: misdemeanor</i></p> <p>Exemptions:</p> <p>Veterinary practice, research animals, other. HAW. REV. STAT. § 711-1108.5(2),(3),(4)</p> <p>Veterinary practice, research animals, pest control, other. HAW. REV. STAT. § 711-1109(1)(c),(2),(3)</p> <p>Other. HAW. REV. STAT. § 711-1109.3(2)</p>
3. Animal Fighting	<p>Various animal fighting or baiting activities. HAW. REV. STAT. § 711-1109(1)(d) <i>Misdemeanor</i></p>

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	<p>Cruelty to animals by fighting dogs in the first degree. HAW. REV. STAT. § 711-1109.3 <i>Class C felony</i></p> <p>Cruelty to animals by fighting dogs in the second degree. HAW. REV. STAT. § 711-1109.35 <i>Class C felony</i></p>
<p>4. Sexual Assault</p>	<p>Sexual assault of an animal and related offenses. HAW. REV. STAT. § 711-1109.8 <i>First offense: misdemeanor</i> <i>Second or subsequent offense: felony</i> <i>In the presence of a minor: Class B felony</i></p> <p>Exemptions: Veterinary practice, standard husbandry practices, conformation judging, customary care. HAW. REV. STAT. § 711-1109.8(2)</p>
<p>5. Cruelty to Working Animals</p>	<p>Causing injury or death to a service animal or law enforcement animal. HAW. REV. STAT. § 711-1109.4 <i>Class C felony</i></p> <p>Intentional interference with the use of a service animal or law enforcement animal. HAW. REV. STAT. § 711-1109.5 <i>Misdemeanor</i></p> <p>Exemptions: Veterinary practice, research animals, other. HAW. REV. STAT. § 711-1109.4 HAW. REV. STAT. § 711-1109.5</p>
<p>6. Laws Specific to Farmed Animals</p>	<p>[None]</p>
<p>7. Cruel Hunting, Trapping, and Fishing</p>	<p>Cruelty to animals by trapping. HAW. REV. STAT. § 711-1109.37 <i>Misdemeanor</i></p> <p>Reporting a dog or cat captured or killed in snare or trap. HAW. REV. STAT. § 143-20.</p>

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	<p>General administrative penalties. HAW. REV. STAT. § 184-5.5</p> <p>Prohibition of taking, injuring, or destroying wild birds. HAW. REV. STAT. § 183D-62</p>
REPORTING LAWS	
8. Cross Reporting	[None]
9. Veterinary Reporting	<p>Veterinarians must report suspected animal cruelty, and have civil immunity for doing so. HAW. REV. STAT. § 471-18</p>
10. “Ag-Gag” Laws	[None]
CIVIL AND CIVILIAN INTERVENTION	
11. Emergency Rescue and Relief	[None]
12. Civil Enforcement	[None]
13. Domestic Violence and Protection Orders	<p>Ex parte order can enjoin party from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal. HAW. REV. STAT. § 586-4</p>
CRIMINAL JUSTICE INTERVENTION	
14. Maximum Penalties and Statute of Limitations	<p>Cannot be sentenced to probation if the crime involved ten or more pet animals. HAW. REV. STAT. § 706-620</p> <p>Petty misdemeanor. <i>30 days imprisonment and/or \$1,000 fine</i> HAW. REV. STAT. § 706-663 HAW. REV. STAT. § 706-640</p> <p>Misdemeanor. <i>1 year imprisonment and/or \$2,000 fine</i> HAW. REV. STAT. § 706-663 HAW. REV. STAT. § 706-640</p>

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	<p>Class C felony. <i>5 years imprisonment and/or \$10,000 fine</i> HAW. REV. STAT. § 706-660 HAW. REV. STAT. § 706-640</p> <p>Statute of Limitations. <i>Petty Misdemeanor: 1 year</i> Haw. Rev. Stat. § 701-108(2)(f) <i>Misdemeanor: 2 years</i> Haw. Rev. Stat. § 701-108(2)(e) <i>Felony: 3 years</i> Haw. Rev. Stat. § 701-108(2)(d)</p>
15. Law Enforcement Policies	<p>“Law enforcement officer” includes officers who are tasked with enforcing specific subsets of laws who are empowered to make arrests. HAW. REV. STAT. § 701-118</p> <p>Appointed humane agents may make arrests. HAW. REV. STAT. § 711-1110</p>
16. Seizure	<p>If there is probable cause to believe that an animal is being mistreated in violation of the law, a law enforcement officer may, after obtaining a search warrant, or in any other lawful manner, enter premises and provide care for, or impound, the animal. HAW. REV. STAT. § 711-1109.1</p> <p>Violations of the section prohibiting sexual assault of an animal shall be subject to the same impound procedures in § 711-1109.1. HAW. REV. STAT. § 711-1109.8(8)</p>
17. Courtroom Animal Advocate Program	[None]
18. Restitution	<p>A humane society is a “victim” for restitution purposes. HAW. REV. STAT. § 706.646(1)(d)</p> <p>Defendant may be required to post a security bond for costs of care of an impounded animal or forfeit rights in the animal. HAW. REV. STAT. § 711-1109.2</p> <p>Court shall order restitution for injury or death to service animals. HAW. REV. STAT. § 711-1109.4</p>

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	<p>HAW. REV. STAT. § 711-1109.5</p> <p>Upon conviction of sexual assault of an animal, the defendant shall reimburse the county for reasonable costs of care, and provide restitution to the animal owner for any medical expenses.</p> <p>HAW. REV. STAT. § 711-1109.8(5)</p> <p>The court shall order the defendant to reimburse the humane society or society for the prevention of cruelty to animals for reasonable costs incurred to care, feed and house any animal that is surrendered or forfeited.</p> <p>HAW. REV. STAT. § 711-1110.5(2)</p>
<p>19. Forfeiture and Possession Bans</p>	<p>Any person convicted of cruelty to animals shall be prohibited from possessing or owning any pet or equine animal for a minimum of five years.</p> <p>HAW. REV. STAT. § 711-1108.5(5)</p> <p>If a court determines that there is probable cause that a violation of the animal protection laws occurred, the court, following such hearing, shall order forfeiture of the impounded animal unless the defendant posts a bond to cover the cost of care for the animal.</p> <p>HAW. REV. STAT. § 711-1109.2</p> <p>Upon conviction of sexual assault of an animal, the defendant shall forfeit the animal who was the subject of the violation, any other animals in their possession, and be prohibited from owning, possessing, residing with, or working alongside any animals for at least 5 years.</p> <p>HAW. REV. STAT. § 711-1109.8(5)</p> <p>Violations of the section prohibiting sexual assault of an animal shall be subject to pre-conviction forfeiture provisions of § 711/1109.2.</p> <p>HAW. REV. STAT. § 711-1109.8(8)</p> <p>Upon conviction, the court may order defendant to forfeit mistreated animal as well as other animals in defendant's possession.</p> <p>HAW. REV. STAT. § 711-1110.5</p>
<p>20. Rehabilitative Sentencing</p>	<p>Upon conviction of sexual assault of an animal, the defendant shall be ordered to attend an appropriate treatment program or obtain psychiatric or psychological counseling.</p> <p>HAW. REV. STAT. § 711-1109.8</p>

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1. DEFINITION OF “ANIMAL”

HAW. REV. STAT. § 711-1100. Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

“Animal” includes every living creature, except a human being.

“Equine animal” means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

“Facsimile” means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

“Law enforcement animal” means any dog, horse, or other animal used by law enforcement or corrections agencies and trained to work in areas of tracking, suspect apprehension, victim assistance, crowd control, or drug or explosive detection for law enforcement purposes.

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal’s needs;
- (3) Access to protection from wind, rain, or sun;
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health; provided that the area of confinement in a primary pet enclosure shall:
 - (a) Provide access to shelter;
 - (b) Be constructed of safe materials to protect the pet animal from injury;
 - (c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal’s health;
 - (d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird, a perch that is large enough for the bird to perch upon in a normal manner;
 - (e) Provide sufficient space to allow the pet animal, at minimum, to do the following:
 - (i) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and
 - (ii) Interact safely with other animals within the enclosure; and
- (5) Veterinary care when needed to prevent suffering.

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

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“Primary pet enclosure” means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

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2. GENERAL CRUELTY

HAW. REV. STAT. § 143-2.6. Animal desertion.

It shall be unlawful for the owner of any animal or any person in possession of an animal that belongs to another person to leave the animal without the intention of returning to it. Any person who violates this section shall be guilty of a petty misdemeanor.

HAW. REV. STAT. § 711-1100. Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

“Animal” includes every living creature, except a human being.

“Equine animal” means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

“Facsimile” means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

“Law enforcement animal” means any dog, horse, or other animal used by law enforcement or corrections agencies and trained to work in areas of tracking, suspect apprehension, victim assistance, crowd control, or drug or explosive detection for law enforcement purposes.

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;*
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal’s needs;*
- (3) Access to protection from wind, rain, or sun;*
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health; provided that the area of confinement in a primary pet enclosure shall:

 - (a) Provide access to shelter;*
 - (b) Be constructed of safe materials to protect the pet animal from injury;*
 - (c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal’s health;*
 - (d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird, a perch that is large enough for the bird to perch upon in a normal manner;*
 - (e) Provide sufficient space to allow the pet animal, at minimum, to do the following:

 - (i) Easily stand, sit, lie, turn around, and make all other normal body movements in a***

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comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and

(ii) *Interact safely with other animals within the enclosure; and*

(5) *Veterinary care when needed to prevent suffering.*

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

“Primary pet enclosure” means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

HAW. REV. STAT. § 711-1108.5. Cruelty to animals in the first degree.

(1) *A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:*

(a) *Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal;*
or

(b) *Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal’s owner.*

(2) Subsection (1)(a) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or

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medicinal practices; or

(c) Cropping or docking as customarily practiced.

(3) Subsection (1)(b) shall not apply to:

(a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or

(b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703–302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703–302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(4) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.

(5) *Cruelty to animals in the first degree is a class C felony.* In addition to any fines and imprisonment imposed under this section, any person convicted under this section shall be prohibited from possessing or owning any pet animal or equine animal for a minimum of five years from the date of conviction.

For the purposes of this section, "person" means any individual; any firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate; or any other legal entity.

(6) For the purposes of this section, "person" means any individual; any firm, partnership, joint venture, association, limited liability company, estate, trust, receiver, or syndicate; or any other legal entity.

HAW. REV. STAT. § 711-1109. Cruelty to animals in the second degree.

(1) *A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:*

(a) *Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury to, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;*

(b) *Deprives a pet animal of necessary sustenance or causes that deprivation;*

(c) *Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin, or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;*

(d) *Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;*

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- (e) *Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;*
 - (f) *Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;*
 - (g) *Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object or uses a trolley, trolley with swivels, pulley, cable, running line, or trolley lacking swivels at each end that is designed to attach a dog to two stationary objects in a configuration that endangers the dog, including preventing the dog from obtaining necessary sustenance;*
 - (h) *Tethers or restrains a dog under the age of six months unless the dog is engaged in an activity supervised by its owner or an agent of its owner;*
 - (i) *Tethers or restrains a dog by a tow or log chain;*
 - (j) *Tethers or restrains by means of a choke collar, pinch collar, or prong collar; unless the dog is engaged in an activity supervised by its owner or an agent of its owner; or*
 - (k) *Assists another in the commission of any act specified in paragraph (a) through (j).*
- (2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:
- (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - (c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.
- (3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.
- (4) *Cruelty to animals in the second degree is a misdemeanor, except that if the offense involves ten or more pet animals in any one instance, then cruelty to animals in the second degree is a class C felony.*

HAW. REV. STAT. § 711-1109.7. Pet animal or equine animal desertion.

- (1) *It shall be unlawful for the owner or any person in possession of any pet animal or equine animal to desert the pet animal or equine animal.*
 - (2) Any person who violates subsection (1) shall be guilty of a petty misdemeanor and subject to a fine not exceeding \$1,000 in addition to any other penalties.
 - (3) Any person who violates subsection (1) and recklessly causes the death of or substantial bodily injury to the pet animal or equine animal shall be guilty of a misdemeanor and subject to a fine not exceeding \$2,000 in addition to any other penalties.
 - (4) Each pet animal or equine animal that is deserted in violation of subsection (1) or suffers death or substantial bodily injury as a result of a violation of subsection (1) shall constitute a separate offense.
- For the purposes of this section, “desert” means to leave without the intent to return.

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3. ANIMAL FIGHTING

HAW. REV. STAT. § 711-1109. Cruelty to animals in the second degree.

- (1) *A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:*
- (a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;
 - (b) Deprives a pet animal of necessary sustenance or causes that deprivation;
 - (c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
 - (d) *Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;*
 - (e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;
 - (f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;
 - (g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object *or uses a trolley, trolley with swivels, pulley, cable, running line, or trolley lacking swivels at each end that is designed to attach a dog to two stationary objects in a configuration that endangers the dog, including preventing the dog from obtaining necessary sustenance;*
 - (h) *Tethers or restrains a dog under the age of six months unless the dog is engaged in an activity supervised by its owner or an agent of its owner;*
 - (i) *Tethers or restrains a dog by a tow or log chain;*
 - (j) *Tethers or restrains by means of a choke collar, pinch collar, or prong collar unless the dog is engaged in an activity supervised by its owner or an agent of its owner;* or
 - (k) Assists another in the commission of any act specified in paragraphs (a) through (j).
- (2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:
- (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - (c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.
- (3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.
- (4) Cruelty to animals in the second degree is a misdemeanor, except that if the offense involves ten or more pet animals in any one instance, then cruelty to animals in the second degree is a class C felony.

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HAW. REV. STAT. § 711-1109.3. Cruelty to animals by fighting dogs in the first degree.

- (1) *A person commits the offense of cruelty to animals by fighting dogs in the first degree if the person:*
 - (a) *Knowingly:*
 - (i) *Causes, sponsors, arranges, or holds a dogfight for entertainment or financial gain; or*
 - (ii) *Owns, trains, transports, possesses, sells, transfers, or equips any dog with the intent that the dog shall be engaged in a dogfight; or*
 - (b) *Recklessly:*
 - (i) *Allows a dogfight to occur on any property owned or controlled by the person; or*
 - (ii) *Allows any dog intended to be used for a dogfight to be kept, trained on, or transported in, any property owned or controlled by the person.*
- (2) *Nothing in this section shall prohibit any of the following:*
 - (a) *The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;*
 - (b) *The use of dogs in hunting wildlife including game; or*
 - (c) *The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.*
- (3) *As used in this section, "dogfight" means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.*
- (4) *Violation of this section shall be a class B felony.*
- (5) *If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.*

HAW. REV. STAT. § 711-1109.35. Cruelty to animals by fighting dogs in the second degree.

- (1) *A person commits the offense of cruelty to animals by fighting dogs in the second degree if the person knowingly:*
 - (a) *Wagers on a dogfight;*
 - (b) *Attends or pays to attend a dogfight; or*
 - (c) *Possesses any device intended to enhance the dog's fighting ability with the intent that the device be used to train or prepare the dog for a dogfight.*
- (2) *As used in this section:*

"Bait dog" means a live animal used to train or prepare dogs for a dogfight.

"Device" means both animate and inanimate objects and includes live animals used as bait dogs.

"Dogfight" means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

"Wager" means staking or risking something of value on the outcome of a dogfight.
- (3) *Cruelty to animals by fighting dogs in the second degree is a class C felony.*

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4. SEXUAL ASSAULT

HAW. REV. STAT. § 711-1109.8. Sexual assault of an animal.

- (1) *A person commits the offense of sexual assault of an animal if the person knowingly:*
- (a) *Subjects an animal to sexual contact;*
 - (b) *Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;*
 - (c) *Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;*
 - (d) *Causes, coerces, aids, or abets another person to subject an animal to sexual contact;*
 - (e) *Permits sexual contact with an animal to be conducted on any premises under the person's charge or control;*
 - (f) *Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected to sexual contact in the State; or*
 - (g) *Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.*
- (2) This section shall not apply to the following practices:
- (a) Veterinary medicine;
 - (b) Artificial insemination of animals for the purpose of procreation;
 - (c) Animal husbandry;
 - (d) Conformation judging; or
 - (e) Customary care of an animal by its owner.
- (3) Unless otherwise provided by any other law:
- (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
 - (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.
- (4) Each violation of this section shall constitute a separate offense.
- (5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to any other penalty, the defendant shall be:
- (a) Ordered to:
 - (i) Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;
 - (ii) Surrender or forfeit any other animals in the defendant's possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;
 - (iii) Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal

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- sexually assaulted under this section;
- (iv) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and
 - (v) Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and
- (b) Prohibited from:
- (i) Harboring, owning, possessing, or exercising control over any animal;
 - (ii) Residing in any household where animals are present; and
 - (iii) Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.
- (6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.
- (7) *As used in this section:*
- “Animal” includes every living or dead creature, except a human being.*
- “Pornographic” has the same meaning as defined in section 712-1210.*
- “Sexual contact” means:*
- (a) *The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or anus of an animal by a person or of a person by an animal; or*
 - (b) *The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.*
- (8) Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.

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5. CRUELTY TO WORKING ANIMALS

HAW. REV. STAT. § 711-1109.4. Causing injury or death to a service animal or law enforcement animal.

- (1) *A person commits the offense of causing injury or death to a service animal or law enforcement animal if:*
 - (a) *The person recklessly causes substantial bodily injury to or the death of any service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties; or*
 - (b) *The person is the owner of a dog and recklessly permits that dog to attack a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties, resulting in the substantial bodily injury or death of the service animal or law enforcement animal.*
- (2) Subsection (1) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - (c) Cropping or docking as customarily practiced and permitted by law.
- (3) Any person who commits the offense of causing injury or death to a service animal or law enforcement animal shall be guilty of a class C felony.
- (4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:
 - (a) The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and
 - (b) The person, entity, or organization that incurs the cost of retraining or replacing the service animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal if it is disabled or killed.
- (5) As used in this section “service animal” shall have the same meaning as in section 347-2.5.

HAW. REV. STAT. § 711-1109.5. Intentional interference with the use of a service animal or law enforcement animal.

- (1) *A person commits the offense of intentional interference with the use of a service animal or law enforcement animal if the person, with no legal justification, intentionally or knowingly strikes, beats, kicks, cuts, stabs, shoots, or administers any type of harmful substance or poison to a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties.*
- (2) Subsection (1) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards or accepted educational or

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medicinal practices; or

(c) Cropping or docking as customarily practiced and permitted by law.

(3) Intentional interference with the use of a service animal or law enforcement animal is a misdemeanor.

(4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:

(a) The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and

(b) The person, entity, or organization that incurs the cost of retraining or replacing the service animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal, if it is disabled or killed.

(5) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(6) As used in this section, “service animal” shall have the same meaning as in section 347-2.5.

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6. LAWS SPECIFIC TO FARMED ANIMALS

[None]

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7. CRUEL HUNTING, TRAPPING, AND FISHING

Editor's Note: *This section does **not** contain all state or territorial laws regarding hunting, trapping, and fishing. This section contains only criminal statutes with the primary purpose of preventing individual wild animals from suffering unnecessary pain or suffering.*

HAW. REV. STAT. § 711-1109.37. Cruelty to animals by trapping.

- (1) *A person commits the offense of cruelty to animals by trapping if the person intentionally, knowingly, or recklessly uses, sets, or maintains:

 - (a) *a steel-jawed leg-hold trap; or*
 - (b) *a snare, conibear trap, or foot- or leg-hold trap in an area zoned as residential or any other area where such snare or trap is prohibited by law or rule; except under the situations described in subsection (2).**
- (2) *Subsection (1)(b) shall not apply to employees of state or federal agencies, or persons acting as a designated cooperator or an agent of the state, who are carrying out activities required under a management plan approved by state or federal agencies, pursuant to a mandatory statutory duty for the protection of species listed as threatened or endangered species, or other wildlife species protected by law, or for the protection of public health, safety or property.*
- (3) *As used in this section:*

"Conibear trap" means a contrivance consisting of metal or steel designed to kill by crushing the body or severing the spinal cord of any animal. "Conibear trap" shall not include snap traps used for rodent control.

"Foot- or leg-hold trap" means a contrivance consisting of metal or steel that is off-set, padded or laminated, and is designed to capture and hold any animal by a foot or limb.

"Snare" means a contrivance consisting of a noose, regardless of material, designed to capture, trap, or kill any animal or hold any animal by a foot, limb or neck.

"Steel-jawed leg-hold trap" means a spring-powered contrivance that captures or holds the limb of an animal by exerting lateral force with fix-mounted jaws.
- (4) *Cruelty to animals by trapping is a misdemeanor.*

HAW. REV. STAT. § 143-20. Reporting of dog or cat captured or killed in snare or trap.

Any dog or cat captured or killed in any steel-jawed leg-hold trap, snare, conibear trap, or foot- or leg-hold trap, as those terms are defined in section 711-1109.37, in an area zoned as residential shall immediately be checked for identification and reported to a county animal control officer and, upon request, shall be turned over to the animal control officer.

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HAW. REV. STAT. § 184-5.5. General administrative penalties.

- (a) Except as otherwise provided by law, the board or its authorized representative by proper delegation may set, charge, and collect administrative fines to recover administrative fees and costs as documented by receipts or affidavits, including attorney's fees and costs; or bring legal action to recover administrative fines, fees, and costs, including attorney's fees and costs; or payment for damages or for the cost to correct damages resulting from a violation of this chapter, any rule adopted, or permit issued thereunder.
- (b) The administrative fines shall be as follows:
- (1) *For a first violation, a fine of not more than \$2,500;*
 - (2) *For a second violation within five years of a previous violation, a fine of not more than \$5,000;*
and
 - (3) *For a third or subsequent violation within five years of the last violation, by a fine of not more than \$10,000.*
- (c) In addition, a fine of up to \$5,000 may be levied for each:
- (1) Archaeological or historical feature appropriated, damaged, removed, excavated, disfigured, defaced, or destroyed;
 - (2) Geological feature destroyed, disturbed, mutilated, dug, removed, excavated, quarried, blasted, or exploded;
 - (3) Public property destroyed, defaced, removed, damaged, or possessed;
 - (4) *Wildlife molested, disturbed, injured, trapped, taken, caught, possessed, poisoned, introduced, or killed; or*
 - (5) Habitat disturbed,
- in violation of this chapter or any rule adopted thereunder.
- (d) Any criminal penalty for any violation of this chapter or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney's fees and costs.

HAW. REV. STAT. § 183D-62. Taking, injuring, or destroying wild birds prohibited.

Except as provided in section 183D-61, no person shall intentionally, knowingly, or recklessly take, catch, injure, kill, or destroy, or attempt to take, catch, injure, kill, or destroy, any wild bird, or to keep or have possession of any wild bird, dead or alive, or to damage or destroy a nest of any wild bird.

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8. CROSS REPORTING

[None]

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9. VETERINARY REPORTING

HAW. REV. STAT. § 471-18. Reporting; duty; dogfighting; animal cruelty; immunity from civil liability.

- (a) *Whenever any veterinarian duly licensed under this chapter has reasonable cause to believe that an animal has been injured or killed through participation in a staged animal fight, as prescribed in section 711-1109.3 or 711-1109.35, it shall be the duty of the veterinarian to promptly report the event to the appropriate law enforcement authorities of the county where the event occurred.*
- (b) *Whenever any veterinarian duly licensed under this chapter has reasonable cause to believe an animal under the veterinarian's care has been a victim of animal cruelty, as prescribed in section 711-1108.5 or 711-1109, it shall be the duty of the veterinarian to promptly report the event to the appropriate law enforcement authorities of the county where the event occurred.*
- (c) *No veterinarian duly licensed under this chapter shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35.*

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10. "AG-GAG" LAWS

[None]

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11. EMERGENCY RESCUE AND RELIEF

[None]

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12. CIVIL ENFORCEMENT

[None]

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13. DOMESTIC VIOLENCE AND PROTECTION ORDERS

HAW. REV. STAT. § 586-4. Temporary restraining orders.

(a) *Upon petition to a family court judge, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:*

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(b) *For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:*

- (1) The length of the relationship;
- (2) The nature of the relationship; and
- (3) The frequency of the interaction between the parties.

(c) *The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse; and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:*

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or

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(4) *Taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.*

- (d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other family court proceeding, including child custody determinations under section 571-46, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.
- (e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this subsection shall be ordered by the court to complete an assessment at any available domestic violence program and shall complete a domestic violence intervention or anger management course as determined by the domestic violence program. The court additionally shall sentence a person convicted under this subsection as follows:
- (1) Except as provided in paragraph (2), for a first conviction for a violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined no less than \$150 nor more than \$500;
 - (2) For a first conviction for a violation of the temporary restraining order, if the person has a prior conviction for any of the following felonies:
 - A. Section 707-701 relating to murder in the first degree;
 - B. Section 707-701.5 relating to murder in the second degree;
 - C. Section 707-710 relating to assault in the first degree;
 - D. Section 707-711 relating to assault in the second degree;
 - E. Section 707-720 relating to kidnapping;
 - F. Section 707-721 relating to unlawful imprisonment in the first degree;
 - G. Section 707-730 relating to sexual assault in the first degree;
 - H. Section 707-731 relating to sexual assault in the second degree;
 - I. Section 707-732 relating to sexual assault in the third degree;
 - J. Section 707-733.6 relating to continuous sexual assault of a minor under the age of fourteen years;
 - K. Section 707-750 relating to promoting child abuse in the first degree;
 - L. Section 708-810 relating to burglary in the first degree;
 - M. Section 708-811 relating to burglary in the second degree;
 - N. Section 709-906 relating to abuse of family or household members; or
 - O. Section 711-11064 relating to aggravated harassment by stalking;
 and if any of these offenses has been committed against a family or household member as defined in section 586-1, the person shall serve a mandatory minimum term of imprisonment of fifteen days and be fined no less than \$150 nor more than \$600; and
 - (3) For the second and any subsequent conviction for a violation of the temporary restraining

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order, the person shall serve a mandatory minimum jail sentence of thirty days and be fined no less than \$250 nor more than \$1,000;

provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

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

The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1), (2), and (3) upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this subsection shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.

- (f) Any fines collected pursuant to subsection [(e)] shall be deposited into the spouse and child abuse special account established under sections 601-3.6.
- (g) If the court denies a temporary restraining order, the court may order upon the oral request of the respondent or the person to be restrained that the petition record be withheld from public inspection; provided that the record shall remain accessible to law enforcement officers without a court order.

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14. MAXIMUM PENALTIES AND STATUTE OF LIMITATIONS

HAW. REV. STAT. § 701-108. Time limitations.

- (1) A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, criminal solicitation to commit murder in any degree, sexual assault in the first and second degrees, sex trafficking, and continuous sexual assault of a minor under the age of fourteen years may be commenced at any time.
- (2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:
 - (a) A prosecution for manslaughter where the death was not caused by the operation of a motor vehicle must be commenced within ten years after it is committed;
 - (b) A prosecution for a class A felony must be commenced within six years after it is committed;
 - (c) A prosecution for any felony under part IX of chapter 708 must be commenced within five years after it is committed;
 - (d) *A prosecution for any other felony must be commenced within three years after it is committed;*
 - (e) *A prosecution for a misdemeanor or parking violation must be commenced within two years after it is committed; and*
 - (f) *A prosecution for a petty misdemeanor or a violation other than a parking violation must be commenced within one year after it is committed.*
- (3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:
 - (a) Any offense an element of which is fraud, deception as defined in section 708-800, or a breach of fiduciary obligation or the offense of medical assistance fraud under section 346-43.5, within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is oneself not a party to the offense, but in no case shall this provision extend the period of limitation by more than six years from the expiration of the period of limitation prescribed in subsection (2);
 - (b) Any offense based on misconduct in office by a public servant at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years from the expiration of the period of limitation prescribed in subsection (2); and
 - (c) Any felony offense involving evidence containing deoxyribonucleic acid from the offender, if a test confirming the presence of deoxyribonucleic acid is performed prior to expiration of the period of limitation prescribed in subsection (2), but in no case shall this provision extend the period of limitation by more than ten years from the expiration of the period of limitation prescribed in subsection (2).
- (4) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

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- (5) A prosecution is commenced either when an indictment is found or a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.
- (6) The period of limitation does not run:
 - (a) During any time when the accused is continuously absent from the State or has no reasonably ascertainable place of abode or work within the State, but in no case shall this provision extend the period of limitation by more than four years from the expiration of the period of limitation prescribed in subsection (2);
 - (b) During any time when a prosecution against the accused for the same conduct is pending in this State; or
 - (c) For any felony offense under chapter 707, part V or VI, during any time when the victim is alive and under eighteen years of age.
- (7) As used in this section, “public servant” shall have the same meaning as in section 710–1000.

HAW. REV. STAT. § 706-620. Authority to withhold sentence of imprisonment.

A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony, except class A felonies defined in chapter 712, part IV, and by section 707-702;
- (3) The defendant is a repeat offender under section 706-606.5;
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(2);
- (5) The crime involved the death of or the infliction of serious or substantial bodily injury upon a child, an elder person, or a handicapped person under section 706-660.2; or
- (6) *The crime is cruelty to animals where ten or more pet animals were involved under section 711-1108.5 or 711-1109.*

HAW. REV. STAT. § 706-640. Authorized fines.

- (1) A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:
 - (a) \$50,000, when the conviction is of a class A felony, murder in the first or second degree, or attempted murder in the first or second degree;
 - (b) \$25,000, when the conviction is of a class B felony;
 - (c) \$10,000, when the conviction is of a class C felony;
 - (d) \$2,000, when the conviction is of a misdemeanor;
 - (e) \$1,000, when the conviction is of a petty misdemeanor or a violation;
 - (f) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;
 - (g) Any higher or lower amount specifically authorized by statute.
- (2) Notwithstanding section 706-641, the court shall impose a mandatory fine upon any defendant convicted of theft in the first or second degree committed by receiving stolen property as set forth in section 708-830(7). The fine imposed shall be the greater of double the value of the stolen property

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received or \$25,000 in the case of a conviction for theft in the first degree; or the greater of double the value of the stolen property received or \$10,000 in the case of a conviction for theft in the second degree. The mandatory fines imposed by this subsection shall not be reduced except and only to the extent that payment of the fine prevents the defendant from making restitution to the victim of the offense, or that the defendant's property, real or otherwise, has been forfeited under chapter 712A as a result of the same conviction for which the defendant is being fined under this subsection. Consequences for nonpayment shall be governed by section 706-644; provided that the court shall not reduce the fine under section 706-644(4) or 706-645.

HAW. REV. STAT. § 706-660. Sentence of imprisonment for class B and C felonies; ordinary terms; discretionary terms.

(1) Except as provided in subsection (2), a person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

- (a) For a class B felony—ten years; and
- (b) *For a class C felony—five years.*

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

(2) A person who has been convicted of a class B or class C felony for any offense under part IV of chapter 712 may be sentenced to an indeterminate term of imprisonment; provided that this subsection shall not apply to sentences imposed under sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8 as that section was in effect prior to July 1, 2017, 712-1242, 712-1245, 712-1249.5, 712-1249.6, 712-1249.7, and 712-1257.

When ordering a sentence under this subsection, the court shall impose a term of imprisonment which shall be as follows:

- (a) For a class B felony -- ten years or less, but not less than five years; and
- (b) *For a class C felony -- five years or less, but not less than one year.*

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. § 706-663. Sentence of imprisonment for misdemeanor and petty misdemeanor.

After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.

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15. LAW ENFORCEMENT POLICIES

HAW. REV. STAT. § 701-118. General definitions.

In this Code, unless a different meaning plainly is required:

“Act” or “action” means a bodily movement whether voluntary or involuntary.

“Acted” includes, where relevant, “omitted to act”.

“Actor” includes, a person who acts, or, where relevant, a person guilty of omission.

“Another” means any other person and includes, where relevant, the United States, this State and any of its political subdivisions, and any other state and any of its political subdivisions.

“Conduct” means an act or omission, or, where relevant, a series of acts or a series of omissions, or a series of acts and omissions.

“Law enforcement officer” means any public servant, whether employed by the State or county or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

“Omission” means a failure to act.

“Person,” “he,” “him,” “actor,” and “defendant” include any natural person, including any natural person whose identity can be established by means of scientific analysis, including but not limited to scientific analysis of deoxyribonucleic acid and fingerprints, whether or not the natural person's name is known, and, where relevant, a corporation or an unincorporated association.

“State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

“Statute” includes the Constitution of the State and a local law or ordinance of a political subdivision of the State.

HAW. REV. STAT. § 711-1110. Relating to agent of society.

The agent of any society which is formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any district in the State, may within such district make arrests and bring before any district judge thereof offenders found violating the provisions of section 711-1109 to be dealt with according to law.

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16. SEIZURE

HAW. REV. STAT. § 711-1109.1. Authority to enter premises; notice of impoundment of animal; damage resulting from entry.

- (1) *If there is probable cause to believe that a pet animal or equine animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, a law enforcement officer, after obtaining a search warrant, or in any other manner authorized by law, may enter the premises where the pet animal or equine animal is located to provide the pet animal or equine animal with food, water, and emergency medical treatment or to impound the pet animal or equine animal. If after reasonable effort, the owner or person having custody of the pet animal or equine animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the pet animal or equine animal was removed.*
- (2) *A law enforcement officer is not liable for any damage resulting from an entry under subsection (1), unless the damage resulted from intentional or reckless behavior on behalf of the law enforcement officer.*
- (3) *A court may order a pet animal or equine animal impounded under subsection (1) to be held at a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. A facility receiving the pet animal or equine animal shall provide adequate food and water and may provide veterinary care.*
- (4) *For purposes of this section, "law enforcement officer" shall have the same meaning as section 710-1000.*

HAW. REV. STAT. § 711-1109.8. Sexual assault of an animal.

- (1) A person commits the offense of sexual assault of an animal if the person knowingly:
 - (a) Subjects an animal to sexual contact;
 - (b) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;
 - (c) Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;
 - (d) Causes, coerces, aids, or abets another person to subject an animal to sexual contact;
 - (e) Permits sexual contact with an animal to be conducted on any premises under the person's charge or control;
 - (f) Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected to sexual contact in the State; or
 - (g) Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.
- (2) This section shall not apply to the following practices:
 - (a) Veterinary medicine;

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- (b) Artificial insemination of animals for the purpose of procreation;
 - (c) Animal husbandry;
 - (d) Conformation judging; or
 - (e) Customary care of an animal by its owner.
- (3) Unless otherwise provided by any other law:
- (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
 - (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.
- (4) Each violation of this section shall constitute a separate offense.
- (5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to any other penalty, the defendant shall be:
- (a) Ordered to:
 - (i) Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;
 - (ii) Surrender or forfeit any other animals in the defendant's possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;
 - (iii) Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal sexually assaulted under this section;
 - (iv) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and
 - (v) Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and
 - (b) Prohibited from:
 - (i) Harboring, owning, possessing, or exercising control over any animal;
 - (ii) Residing in any household where animals are present; and
 - (iii) Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.
- (6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.
- (7) As used in this section:
- “Animal” includes every living or dead creature, except a human being.
- “Pornographic” has the same meaning as defined in section 712-1210.
- “Sexual contact” means:
- (a) The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or

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anus of an animal by a person or of a person by an animal; or

(b) The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.

(8) *Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.*

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17. COURTROOM ANIMAL ADVOCATE PROGRAM

[None]

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18. RESTITUTION

HAW. REV. STAT. § 706-646. Victim restitution.

- (1) *As used in this section, “victim” includes any of the following:*
 - (a) The direct victim of a crime including a business entity, trust, or governmental entity;
 - (b) If the victim dies as a result of the crime, a surviving relative of the victim as defined in chapter 351;
 - (c) A governmental entity that has reimbursed the victim for losses arising as a result of the crime or paid for medical care provided to the victim as a result of the crime; or
 - (d) *Any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals, contracted with the county or State to enforce animal-related statutes or ordinances, that impounds, holds, or receives custody of a pet animal pursuant to section 711-1109.1, 711-1109.2, or 711-1110.5; provided that this section does not apply to costs that have already been contracted and provided for by the counties or State.*
- (2) The court shall order the defendant to make restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant's offense when requested by the victim. The court shall order restitution to be paid to the crime victim compensation commission if the victim has been given an award for compensation under chapter 351. If the court orders payment of a fine in addition to restitution or a compensation fee, or both, the payment of restitution and compensation fee shall be made pursuant to 706-651.
- (3) In ordering restitution, the court shall not consider the defendant's financial ability to make restitution in determining the amount of restitution to order. The court, however, shall consider the defendant's financial ability to make restitution for the purpose of establishing the time and manner of payment. The court shall specify the time and manner in which restitution is to be paid. While the defendant is in the custody of the department of corrections and rehabilitation, restitution shall be collected pursuant to chapter 353 and any court-ordered payment schedule shall be suspended. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including but not limited to:
 - (a) Full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;
 - (b) Medical expenses, which shall include mental health treatment, counseling, and therapy; and
 - (c) Funeral and burial expenses; and
 - (d) Lost earnings, which shall include paid leave.
- (4) In any criminal proceeding before any court, all money deposited by the defendant as bail and not declared forfeited shall be applied toward payment of any restitution, fines, or fees ordered by the court in the same case, consistent with the priorities in subsection (2).
- (5) The restitution ordered shall not affect the right of a victim to recover under section 351-33 or in any manner provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33.

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HAW. REV. STAT. § 711-1109.2. Forfeiture of animal prior to disposition of criminal charges.

- (1) *If any pet animal or equine animal is impounded pursuant to section 711-1109.1, prior to filing of, or final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal or equine animal may file a petition in the court that would have jurisdiction over the criminal case when the criminal charge is filed, if the petition is filed prior to the filing of the criminal charge, or in the criminal action requesting that the court issue an order for forfeiture of the pet animal or equine animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to the filing of the criminal charge that arises from the impoundment or final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, and the prosecuting attorney.*
- (2) *Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.*
- (3) *At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal or equine animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35, as applicable. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal or equine animal to the petitioner, unless the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, within seventy-two hours of the hearing:

 - (a) *Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal or equine animal from the date of initial impoundment to the date of trial; or*
 - (b) *Demonstrates to the court that proper alternative care has been arranged for the pet animal or equine animal.**

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, post a security deposit or bond.

- (4) *If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal or equine animal until the date*

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of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

- (5) No pet animal or equine animal may be destroyed by a petitioner under this section prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, except in the event that the pet animal or equine animal is a danger to itself or others, or so severely injured that there is no reasonable probability that its life can be saved.
- (6) Forfeiture of a pet animal or equine animal under this section shall not be subject to the provisions of chapter 712A.
- (7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.
- (8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.
- (9) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter.

HAW. REV. STAT. § 711-1109.4. Causing injury or death to a service animal or law enforcement animal.

- (1) A person commits the offense of causing injury or death to a service animal or law enforcement animal if:
 - (a) The person recklessly causes substantial bodily injury to or the death of any service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties; or
 - (b) The person is the owner of a dog and recklessly permits that dog to attack a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties, resulting in the substantial bodily injury or death of the service animal or law enforcement animal.
- (2) Subsection (1) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - (c) Cropping or docking as customarily practiced and permitted by law.
- (3) Any person who commits the offense of causing injury or death to a service animal or law enforcement animal shall be guilty of a class C felony.
- (4) *In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:*
 - (a) *The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and*
 - (b) *The person, entity, or organization that incurs the cost of retraining or replacing the service*

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animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal if it is disabled or killed.

(5) As used in this section “service animal” shall have the same meaning as in section 347-2.5.

HAW. REV. STAT. § 711-1109.5. Intentional interference with the use of a service animal or law enforcement animal.

- (1) A person commits the offense of intentional interference with the use of a service animal or law enforcement animal if the person, with no legal justification, intentionally or knowingly strikes, beats, kicks, cuts, stabs, shoots, or administers any type of harmful substance or poison to a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties.
- (2) Subsection (1) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards or accepted educational or medicinal practices; or
 - (c) Cropping or docking as customarily practiced and permitted by law.
- (3) Intentional interference with the use of a service animal or law enforcement animal is a misdemeanor.
- (4) *In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:*
 - (a) *The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and*
 - (b) *The person, entity, or organization that incurs the cost of retraining or replacing the service animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal, if it is disabled or killed.*
- (5) Nothing in this section is intended to affect any civil remedies available for a violation of this section.
- (6) As used in this section, “service animal” shall have the same meaning as in section 347-2.5.

HAW. REV. STAT. § 711-1109.8. Sexual assault of an animal.

- (1) A person commits the offense of sexual assault of an animal if the person knowingly:
 - (a) Subjects an animal to sexual contact;
 - (b) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;
 - (c) Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;
 - (d) Causes, coerces, aids, or abets another person to subject an animal to sexual contact;
 - (e) Permits sexual contact with an animal to be conducted on any premises under the person's charge or control;
 - (f) Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected

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to sexual contact in the State; or

- (g) Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.

(2) This section shall not apply to the following practices:

- (a) Veterinary medicine;
- (b) Artificial insemination of animals for the purpose of procreation;
- (c) Animal husbandry;
- (d) Conformation judging; or
- (e) Customary care of an animal by its owner.

(3) Unless otherwise provided by any other law:

- (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
- (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.

(4) Each violation of this section shall constitute a separate offense.

(5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to any other penalty, the defendant shall be:

(a) Ordered to:

- (i) Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;
- (ii) Surrender or forfeit any other animals in the defendant's possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;
- (iii) *Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal sexually assaulted under this section;*
- (iv) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and
- (v) *Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and*

(b) Prohibited from:

- (i) Harboring, owning, possessing, or exercising control over any animal;
- (ii) Residing in any household where animals are present; and
- (iii) Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.

(6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.

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(7) As used in this section:

“Animal” includes every living or dead creature, except a human being.

“Pornographic” has the same meaning as defined in section 712-1210.

“Sexual contact” means:

- (a) The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or anus of an animal by a person or of a person by an animal; or
- (b) The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.

(8) Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.

HAW. REV. STAT. § 711-1110.5. Surrender or forfeiture of animals.

Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.6, or 711-1109.35:

- (1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and
- (2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.

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19. FORFEITURE AND POSSESSION BANS

HAW. REV. STAT. § 711-1108.5. Cruelty to animals in the first degree.

- (1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:
 - (a) Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or
 - (b) Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal's owner.
- (2) Subsection (1)(a) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
 - (c) Cropping or docking as customarily practiced.
- (3) Subsection (1)(b) shall not apply to:
 - (a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or
 - (b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703–302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703–302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.
- (4) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.
- (5) Cruelty to animals in the first degree is a class C felony. *In addition to any fines and imprisonment imposed under this section, any person convicted under this section shall be prohibited from possessing or owning any pet animal or equine animal for a minimum of five years from the date of conviction.*
- (6) For the purposes of this section, "person" means any individual; any firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate; or any other legal entity.

HAW. REV. STAT. § 711-1109.2. Forfeiture of animal prior to disposition of criminal charges.

- (1) *If any pet animal or equine animal is impounded pursuant to section 711-1109.1, prior to filing of, or final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35,*

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as applicable, against the pet animal's or equine animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal or equine animal may file a petition in the court that would have jurisdiction over the criminal case when the criminal charge is filed, if the petition is filed prior to the filing of the criminal charge, or in the criminal action requesting that the court issue an order for forfeiture of the pet animal or equine animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to the filing of the criminal charge that arises from the impoundment or final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, and the prosecuting attorney.

- (2) *Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.*
- (3) *At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal or equine animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35, as applicable. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal or equine animal to the petitioner, unless the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, within seventy-two hours of the hearing:

 - (a) *Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal or equine animal from the date of initial impoundment to the date of trial; or*
 - (b) *Demonstrates to the court that proper alternative care has been arranged for the pet animal or equine animal.**

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, post a security deposit or bond.

- (4) *If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the owner or custodian of the impounded pet animal or equine animal, when a petition is filed prior to the filing of the criminal charge, or the defendant, in the criminal action, to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.*
- (5) *No pet animal or equine animal may be destroyed by a petitioner under this section prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, except in the event that the pet animal*

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or equine animal is a danger to itself or others, or so severely injured that there is no reasonable probability that its life can be saved.

- (6) *Forfeiture of a pet animal or equine animal under this section shall not be subject to the provisions of chapter 712A.*
- (7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.
- (8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.
- (9) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter.

HAW. REV. STAT. § 711-1109.8. Sexual assault of an animal.

- (1) A person commits the offense of sexual assault of an animal if the person knowingly:
 - (a) Subjects an animal to sexual contact;
 - (b) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;
 - (c) Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;
 - (d) Causes, coerces, aids, or abets another person to subject an animal to sexual contact;
 - (e) Permits sexual contact with an animal to be conducted on any premises under the person's charge or control;
 - (f) Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected to sexual contact in the State; or
 - (g) Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.
- (2) This section shall not apply to the following practices:
 - (a) Veterinary medicine;
 - (b) Artificial insemination of animals for the purpose of procreation;
 - (c) Animal husbandry;
 - (d) Conformation judging; or
 - (e) Customary care of an animal by its owner.
- (3) Unless otherwise provided by any other law:
 - (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
 - (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.
- (4) Each violation of this section shall constitute a separate offense.
- (5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to

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any other penalty, the defendant shall be:

(a) Ordered to:

- (i) *Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;*
- (ii) *Surrender or forfeit any other animals in the defendant's possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;*
- (iii) Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal sexually assaulted under this section;
- (iv) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and
- (v) Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and

(b) *Prohibited from:*

- (i) *Harboring, owning, possessing, or exercising control over any animal;*
- (ii) *Residing in any household where animals are present; and*
- (iii) *Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.*

(6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(7) As used in this section:

“Animal” includes every living or dead creature, except a human being.

“Pornographic” has the same meaning as defined in section 712-1210.

“Sexual contact” means:

- (a) The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or anus of an animal by a person or of a person by an animal; or
- (b) The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.

(8) *Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.*

HAW. REV. STAT. § 711-1110.5. Surrender or forfeiture of animals.

Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.6, or 711-1109.35:

(1) *The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of*

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the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and

- (2) *The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.*

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.

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20. REHABILITATIVE SENTENCING

HAW. REV. STAT. § 711-1109.8. Sexual assault of an animal.

- (1) A person commits the offense of sexual assault of an animal if the person knowingly:
 - (a) Subjects an animal to sexual contact;
 - (b) Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent to subject the animal to sexual contact;
 - (c) Organizes, promotes, conducts, or participates as an observer in an act where an animal is subject to sexual contact;
 - (d) Causes, coerces, aids, or abets another person to subject an animal to sexual contact;
 - (e) Permits sexual contact with an animal to be conducted on any premises under the person's charge or control;
 - (f) Advertises, solicits, offers, or accepts the offer of an animal with the intent that it be subjected to sexual contact in the State; or
 - (g) Creates, distributes, publishes, or transmits, whether for commercial or recreational purposes, a pornographic image or material depicting a person subjecting an animal to sexual contact.
- (2) This section shall not apply to the following practices:
 - (a) Veterinary medicine;
 - (b) Artificial insemination of animals for the purpose of procreation;
 - (c) Animal husbandry;
 - (d) Conformation judging; or
 - (e) Customary care of an animal by its owner.
- (3) Unless otherwise provided by any other law:
 - (a) Sexual assault of an animal is a misdemeanor for the first offense and a class C felony for the second or subsequent offense; or
 - (b) If the offense subjected a minor to sexual contact with an animal or was committed in the presence of a minor as defined in section 706-606.4, sexual assault of an animal is a class B felony.
- (4) Each violation of this section shall constitute a separate offense.
- (5) Upon conviction, guilty plea, or plea of nolo contendere for any violation of this section, in addition to any other penalty, the defendant shall be:
 - (a) Ordered to:
 - (i) Surrender or forfeit the animal whose sexual assault was the basis of the conviction or plea to the custody of the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court;
 - (ii) Surrender or forfeit any other animals in the defendant's possession, custody, or control to the animal service contractor in the county in which the offense took place for the time and under the conditions ordered by the court; provided that there is substantial evidence that the animals are being abused in violation of this section;
 - (iii) Reimburse the animal service contractor in the county in which the offense took place for reasonable costs incurred to care for, feed, house, and medically treat any animal

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- sexually assaulted under this section;
- (iv) *Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the defendant's expense; and*
 - (v) Make restitution to the owner of the animal, including reimbursement for any expenses incurred for medical treatment or rehabilitation; provided that the defendant is not the owner of the animal whose sexual assault was the basis of the conviction or plea; and
- (b) Prohibited from:
- (i) Harboring, owning, possessing, or exercising control over any animal;
 - (ii) Residing in any household where animals are present; and
 - (iii) Engaging in any occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present, for the length of time that the court deems reasonable for the protection of all animals but no less than five years after the person's release from imprisonment or court supervision.
- (6) Prosecution under this section does not preclude prosecution under any other law. Nothing in this section is intended to affect any civil remedies available for a violation of this section.
- (7) As used in this section:
- “Animal” includes every living or dead creature, except a human being.
- “Pornographic” has the same meaning as defined in section 712-1210.
- “Sexual contact” means:
- (a) The intentional touching or penetration, however slight, of the sex organs, genitalia, mouth, or anus of an animal by a person or of a person by an animal; or
 - (b) The insertion of a person's body part or object into the sex organs, genitalia, mouth, or anus of an animal.
- (8) Violations of this section shall be subject to the search, impound, and forfeiture provisions in sections 711-1109.1 and 711-1109.2.