

JAN 27 2010

A BILL FOR AN ACT

RELATING TO TEMPORARY RESTRAINING ORDERS.

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

1 SECTION 1. Section 604-10.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) For the purposes of this section:

5 "Course of conduct" means a pattern of conduct composed of
6 a series of acts over any period of time evidencing a continuity
7 of purpose.

8 "Educational worker" has the same meaning as defined in
9 section 707-711.

10 "Harassment" means:

11 (1) Physical harm, bodily injury, assault, or the threat
12 of imminent physical harm, bodily injury, or assault;
13 [~~or~~]

14 (2) An intentional or knowing course of conduct directed
15 at an individual that seriously alarms or disturbs
16 consistently or continually bothers the individual,
17 and that serves no legitimate purpose; provided that



1 such course of conduct would cause a reasonable person
2 to suffer emotional distress[-]; or

3 (3) A threat of physical harm, bodily injury, or assault
4 against a public servant that arises out of the
5 performance of the public servant's official duties.

6 "Public servant" includes but is not limited to a parole or
7 probation officer, or an educational worker."

8 2. By amending subsection (c) to read:

9 "(c) Any person who has been subjected to harassment may
10 petition the district court of the district in which the
11 petitioner resides for a temporary restraining order and an
12 injunction from further harassment. A public servant seeking a
13 temporary restraining order pursuant to paragraph (3) of the
14 definition of "harassment" as set forth in subsection (a) shall
15 be entitled to counsel during all phases of the temporary
16 restraining order process, pursuant to section 28-4."

17 3. By amending subsection (f) to read:

18 "(f) A temporary restraining order that is granted under
19 this section shall remain in effect at the discretion of the
20 court for a period not to exceed ninety days from the date the
21 order is granted. A hearing on the petition to enjoin
22 harassment shall be held within fifteen days after the temporary



1 restraining order is granted. [~~In the event that~~] If service of
2 the temporary restraining order has not been effected before the
3 date of the hearing on the petition to enjoin, the court may set
4 a new date for the hearing; provided that the new date shall not
5 exceed ninety days from the date the temporary restraining order
6 was granted.

7 The parties named in the petition may file or give oral
8 responses explaining, excusing, justifying, or denying the
9 alleged act or acts of harassment. The court shall receive all
10 evidence that is relevant at the hearing, and may make
11 independent inquiry.

12 If the court finds by clear and convincing evidence that
13 harassment as defined in paragraph (1) or (3) of that definition
14 exists, it may enjoin for no more than three years further
15 harassment of the petitioner, or that harassment as defined in
16 paragraph (2) of that definition exists, it shall enjoin for no
17 more than three years further harassment of the petitioner;
18 provided that this paragraph shall not prohibit the court from
19 issuing other injunctions against the named parties even if the
20 time to which the injunction applies exceeds a total of three
21 years.



1 Any order issued under this section shall be served upon
2 the respondent. For the purposes of this section, "served"
3 shall mean actual personal service, service by certified mail,
4 or proof that the respondent was present at the hearing in which
5 the court orally issued the injunction.

6 Where service of a restraining order or injunction has been
7 made or where the respondent is deemed to have received notice
8 of a restraining order or injunction order, any knowing or
9 intentional violation of the restraining order or injunction
10 order shall subject the respondent to the provisions in
11 subsection (h).

12 Any order issued shall be transmitted to the chief of
13 police of the county in which the order is issued by way of
14 regular mail, facsimile transmission, or other similar means of
15 transmission."

16 SECTION 2. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Temporary Restraining Orders; Protections for Public Servants

Description:

Adds physical threats against public servants arising out of the performance of the public duties of the public servant under the definition of "harassment" that would be subject to a temporary restraining order. Requires Attorney General to provide advice and counsel to any public servant seeking a temporary restraining order in response to the foregoing conduct.

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

