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## A BILL FOR AN ACT

RELATING TO HARASSMENT.

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

1           SECTION 1. Section 604-10.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (h) to read as follows:

3           "(h) A knowing or intentional violation of a restraining  
4 order or injunction issued pursuant to this section is a  
5 misdemeanor. [~~The~~] If the court finds by clear and convincing  
6 evidence that a restraining order or injunction issued pursuant  
7 to this section was knowingly or intentionally violated by  
8 either party, the court shall sentence [a] the violator to  
9 appropriate counseling and shall sentence [a] the person  
10 convicted under this section as follows:

11           (1) For a violation of an injunction or restraining order  
12 that occurs after a conviction for a violation of the  
13 same injunction or restraining order, a violator shall  
14 be sentenced to a mandatory minimum jail sentence of  
15 not less than forty-eight hours; and

16           (2) For any subsequent violation that occurs after a  
17 second conviction for violation of the same injunction  
18 or restraining order, the person shall be sentenced to



1 a mandatory minimum jail sentence of not less than  
2 thirty days.

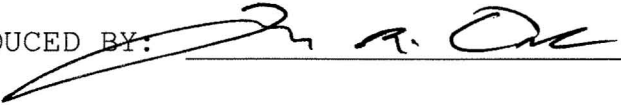
3 The court may suspend any jail sentence, except for the  
4 mandatory sentences under paragraphs (1) and (2), upon  
5 appropriate conditions, such as that the defendant remain  
6 alcohol and drug-free, conviction-free, or complete court-  
7 ordered assessments or counseling. The court may suspend the  
8 mandatory sentences under paragraphs (1) and (2) where the  
9 violation of the injunction or restraining order does not  
10 involve violence or the threat of violence. Nothing in this  
11 section shall be construed as limiting the discretion of the  
12 judge to impose additional sanctions authorized in sentencing  
13 for a misdemeanor offense."

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

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on January 1, 2010.

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INTRODUCED BY:  \_\_\_\_\_

JAN 23 2009



**Report Title:**

Temporary Restraining Orders

**Description:**

Requires temporary restraining orders issued by district court to apply to both the petitioner and the respondent. Establishes the "clear and convincing" evidentiary threshold for conviction.

