
A BILL FOR AN ACT

RELATING TO THE COURTS.

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

1 PART I

2 SECTION 1. Chapter 634, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 "PART . ANONYMOUS FILINGS

6 §634- Anonymous filings. (a) Upon petition to a court
7 under this section, the court may allow a petition, complaint,
8 motion, or other document to be filed by a plaintiff identifying
9 the parties as "jane doe" or "john doe"; provided that when
10 deciding to permit a "jane doe" or "john doe" filing, the court
11 may consider factors including:

- 12 (1) The severity of the plaintiff's injury;
- 13 (2) The reasonableness of the plaintiff's fears;
- 14 (3) The plaintiff's vulnerability to retaliation;
- 15 (4) The risk of prejudice to the defendant; and
- 16 (5) How the public interest would be served if the
17 plaintiff is allowed to remain anonymous.



1 (b) If there are compelling reasons sufficient to outweigh
2 the public's interest in the disclosure of the parties and it is
3 the belief of the court that the parties' court files may become
4 a vehicle for improper use if not anonymous, the court may seal
5 from the public all documents or portions of documents that
6 would identify the parties or contain sufficient information
7 from which the parties' identities could be discerned or
8 inferred."

9 SECTION 2. Section 604-10.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§604-10.5 Power to enjoin and temporarily restrain**
12 **harassment.** (a) For the purposes of this section:

13 "Course of conduct" means a pattern of conduct composed of
14 a series of acts over any period of time evidencing a continuity
15 of purpose.

16 "Harassment" means:

17 (1) Physical harm, bodily injury, assault, or the threat
18 of imminent physical harm, bodily injury, or assault;

19 or

20 (2) An intentional or knowing course of conduct directed
21 at an individual that seriously alarms or disturbs
22 consistently or continually bothers the individual[7]



1 and that serves no legitimate purpose; provided that
2 such course of conduct would cause a reasonable person
3 to suffer emotional distress.

4 (b) The district courts shall have power to enjoin or
5 prohibit or temporarily restrain harassment.

6 (c) Any person who has been subjected to harassment may
7 petition the district court of the district in which the
8 petitioner resides for a temporary restraining order and an
9 injunction from further harassment.

10 (d) A petition for relief from harassment shall be in
11 writing and shall allege that a past act or acts of harassment
12 may have occurred[7] or that threats of harassment make it
13 probable that acts of harassment may be imminent; and shall be
14 accompanied by an affidavit made under oath or statement made
15 under penalty of perjury stating the specific facts and
16 circumstances from which relief is sought.

17 (e) Upon petition to a district court under this section,
18 the court may allow a petition, complaint, motion, or other
19 document to be filed identifying the petitioner as "jane doe" or
20 "john doe"; provided that the court finds that the "jane doe" or
21 "john doe" filing is reasonably necessary to protect the privacy



1 of the petitioner and will not unduly prejudice the prosecution
2 or the defense.

3 In considering a petition requesting a "jane doe" or "john
4 doe" filing, the court shall weigh the petitioner's interest in
5 privacy against the public's interest in disclosure.

6 The court, only after finding clear and convincing evidence
7 that would make public inspection inconsistent with the purpose
8 of this section, may seal from the public all documents or
9 portions of documents that would identify the petitioner or
10 contain sufficient information from which the petitioner's
11 identity could be discerned or inferred.

12 [~~e~~] (f) Upon petition to a district court under this
13 section, the court may temporarily restrain the person or
14 persons named in the petition from harassing the petitioner upon
15 a determination that there is probable cause to believe that a
16 past act or acts of harassment have occurred or that a threat or
17 threats of harassment may be imminent. The court may issue an
18 ex parte temporary restraining order either in writing or
19 orally; provided that oral orders shall be reduced to writing by
20 the close of the next court day following oral issuance.

21 [~~f~~] (g) A temporary restraining order that is granted
22 under this section shall remain in effect at the discretion of



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

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

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



1 time to which the injunction applies exceeds a total of three
2 years.

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

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

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

18 [~~(g)~~] (h) The court may grant the prevailing party in an
19 action brought under this section[~~]~~ costs and fees, including
20 attorney's fees.

21 [~~(h)~~] (i) A knowing or intentional violation of a
22 restraining order or injunction issued pursuant to this section



1 is a misdemeanor. The court shall sentence a violator to
2 appropriate counseling and shall sentence a person convicted
3 under this section as follows:

4 (1) For a violation of an injunction or restraining order
5 that occurs after a conviction for a violation of the
6 same injunction or restraining order, [~~a violator~~] the
7 person shall be sentenced to a mandatory minimum jail
8 sentence of not less than forty-eight hours; and

9 (2) For any subsequent violation that occurs after a
10 second conviction for violation of the same injunction
11 or restraining order, the person shall be sentenced to
12 a mandatory minimum jail sentence of not less than
13 thirty days.

14 The court may suspend any jail sentence, except for the
15 mandatory sentences under paragraphs (1) and (2), upon
16 appropriate conditions, such as that the defendant remain
17 alcohol- and drug-free, conviction-free, or complete court-
18 ordered assessments or counseling. The court may suspend the
19 mandatory sentences under paragraphs (1) and (2) where the
20 violation of the injunction or restraining order does not
21 involve violence or the threat of violence. Nothing in this
22 section shall be construed as limiting the discretion of the



1 judge to impose additional sanctions authorized in sentencing
2 for a misdemeanor offense.

3 ~~(i)~~ (j) Nothing in this section shall be construed to
4 prohibit constitutionally protected activity."

5 PART II

6 SECTION 3. Chapter 551D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§551D- Witness and notary requirements. (a) A

10 durable power of attorney shall not be enforceable unless it is:

11 (1) Signed by two witnesses who satisfy the requirements
12 of subsection (b); and

13 (2) Acknowledged by a notary public.

14 (b) A person shall not be a witness to the execution of a
15 durable power of attorney unless the person is:

16 (1) Eighteen years of age or older;

17 (2) Not the attorney in fact named in the durable power of
18 attorney;

19 (3) Not related to the attorney in fact or to the other
20 witness; and



1 (4) Witness to either the signing of the instrument by the
2 principal or the principal's acknowledgment of the
3 signature on the durable power of attorney."

4 SECTION 4. Chapter 560, Hawaii Revised Statutes, is
5 amended by adding a new section to article 5 to be appropriately
6 designated and to read as follows:

7 "§560:5- **Witness and notary requirements.** (a) A power
8 of attorney shall not be enforceable unless it is:

9 (1) Signed by two witnesses who satisfy the requirements
10 of subsection (b); and

11 (2) Acknowledged by a notary public.

12 (b) A person shall not be a witness to the execution of a
13 power of attorney unless the person is:

14 (1) Eighteen years of age or older;

15 (2) Not the attorney in fact named in the power of
16 attorney;

17 (3) Not related to the attorney in fact or to the other
18 witness; and

19 (4) Witness to either the signing of the instrument by the
20 principal or the principal's acknowledgment of the
21 signature on the power of attorney."



1 SECTION 5. Chapter 657, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§657- Fraud or undue influence; wills, estate plans,
5 or trusts. All actions to challenge or contest a will, estate
6 plan, or trust where:

7 (1) It is alleged that the testator, principal, or
8 property owner who established the will, estate plan,
9 or trust amended the provisions of the will, estate
10 plan, or trust as a result of fraud or undue influence

11 by:

12 (A) The beneficiary or beneficiaries of the
13 amendments; or

14 (B) Persons acting as agents of the parties in
15 subparagraph (A); and

16 (2) The action is commenced by persons designated as
17 beneficiaries of the will, estate plan, or trust prior
18 to the amendments;

19 shall be brought within nine years after the cause of action
20 accrued or within six years after discovery of the fraud or
21 undue influence, whichever period is longer."

22



1 PART III

2 SECTION 6. Section 707-701, Hawaii Revised Statutes, is
3 amended by amending subsection (1) to read as follows:

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

- 7 (a) More than one person in the same or separate incident;
8 (b) A law enforcement officer, judge, or prosecutor
9 arising out of the performance of official duties;
10 (c) A person known by the defendant to be a witness in a
11 criminal prosecution and the killing is related to the
12 person's status as a witness;
13 (d) A person by a hired killer, in which event both the
14 person hired and the person responsible for hiring the
15 killer shall be punished under this section; ~~[or]~~
16 (e) A person while the defendant was imprisoned~~[-]~~; or
17 (f) A person known by the defendant to be a witness in a
18 family court case and the killing is related to the
19 person's status as a witness."



1 PART IV

2 SECTION 7. Chapter 707, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 "PART . LABOR TRAFFICKING

6 §707-A Definitions. As used in this part:

7 "Labor" means work of economic or financial value.

8 "Services" means a relationship between a person and the
9 actor in which the person performs activities under the
10 supervision of or for the benefit of the actor or a third party.

11 "Venture" means a business relationship between two or more
12 parties to undertake economic activity together.

13 §707-B Labor trafficking in the first degree. (1) A
14 person commits the offense of labor trafficking in the first
15 degree if the person knowingly provides or obtains or attempts
16 to provide or obtain another person for labor or services, by
17 any of the following means:

- 18 (a) Extortion as defined in section 707-764;
- 19 (b) Kidnapping as defined in section 707-720;
- 20 (c) Unlawful imprisonment as defined in section 707-721 or
- 21 707-722;
- 22 (d) Force, threat, or intimidation;



- 1 (e) Deception, as defined in section 708-800, or fraud,
2 which means making material false statements,
3 misstatements, or omissions to induce or maintain the
4 person to engage or continue to engage in the labor or
5 services;
- 6 (f) Requiring that labor be performed to retire, repay, or
7 service a real or purported debt, if performing the
8 labor or services is the exclusive method allowed to
9 retire, repay, or service the debt and the indebted
10 person is required to repay the debt with direct labor
11 in place of currency; provided that this shall not
12 include labor or services performed by a child for the
13 child's parent or guardian;
- 14 (g) Assault in violation of either section 707-710,
15 707-711, or 707-712;
- 16 (h) Withholding any of the trafficked person's government-
17 issued identification documents with the intent to
18 impede the movement of the person;
- 19 (i) Using any scheme, plan, or pattern intended to cause
20 the person to believe that if the person did not
21 perform the labor or services, then the person or a
22 friend or a member of the person's family would suffer



1 serious harm, serious financial loss, or physical
2 restraint; or

3 (j) Using or threatening to use any form of domination,
4 restraint, or control over the person which, given the
5 totality of the circumstances, would have the
6 reasonably foreseeable effect of causing the person to
7 engage in or to remain engaging in the labor or
8 services.

9 (2) Labor trafficking in the first degree is a class A
10 felony.

11 **§707-C Labor trafficking in the second degree.** (1) A
12 person commits the offense of labor trafficking in the second
13 degree if the person knowingly:

14 (a) Recruits, entices, solicits, isolates, harbors,
15 transports or maintains, or so attempts, another
16 person knowing that the person will be subjected to
17 forced labor or services under section 707-B;

18 (b) Either acting as an individual or using a licensed
19 business enterprise, aids another in a venture knowing
20 that the other person in that venture is committing
21 the offense of labor trafficking in the first degree;
22 or



1 (c) Benefits, financially or by receiving something of
2 value, from participation in a venture knowing or in
3 reckless disregard of the fact that another person has
4 engaged in any act in violation of paragraph (a) or
5 (b) in the course of that venture or that another
6 person in that venture is committing the offense of
7 labor trafficking in the first degree.

8 (2) Labor trafficking in the second degree is a class B
9 felony; provided that if a violation of subsection (1) involves
10 kidnapping or an attempt to kidnap, aggravated sexual abuse or
11 the attempt to commit aggravated sexual abuse, or an attempt to
12 cause the death of a person, or if a death results, the offense
13 shall be a class A felony.

14 (3) Upon conviction of a defendant under subsection (1),
15 the court shall also order that any and all business licenses
16 issued by the State be revoked for the business or enterprise
17 that the defendant used to aid in the offense of labor
18 trafficking in the second degree; provided that the court, in
19 its discretion, may reinstate the business license upon petition
20 to the court by any remaining owner or partner of the business
21 or enterprise who was not convicted of an offense under this
22 section.



1 **§707-D Additional sentencing considerations; victims held**
2 **in servitude.** In addition to the factors set forth in sections
3 706-606 and 706-621, when determining the particular sentence to
4 be imposed on a defendant convicted under section 707-B or
5 707-C, the court shall consider:

6 (a) The time in which the victim was held in servitude;
7 and

8 (b) The number of victims.

9 **§707-E Extended terms of imprisonment; labor trafficking**
10 **offenses.** If a person is found guilty of a violation under
11 section 707-B or 707-C and the victim suffered bodily injury,
12 the person may be sentenced to an extended indeterminate term of
13 imprisonment. Subject to the procedures set forth in section
14 706-664, the court may impose, in addition to the indeterminate
15 term of imprisonment provided for the grade of offense, an
16 additional indeterminate term of imprisonment as follows:

17 (a) Bodily injury - an additional two years of
18 imprisonment;

19 (b) Serious bodily injury - an additional five years of
20 imprisonment;

21 (c) Permanent or life-threatening bodily injury - an
22 additional fifteen years of imprisonment; or



1 (d) If death results, the defendant shall be sentenced in
2 accordance with the homicide statute relevant for the
3 level of criminal intent.

4 When ordering an extended term sentence, the court shall impose
5 the maximum length of imprisonment. The minimum length of
6 imprisonment for an extended term sentence under paragraphs (a),
7 (b), (c), or (d) shall be determined by the Hawaii paroling
8 authority in accordance with section 706-669.

9 **§707-F Restitution for victims of labor trafficking. (1)**

10 In addition to any other penalty, and notwithstanding a victim's
11 failure to request restitution under section 706-646(2), the
12 court shall order restitution to be paid to the victim,
13 consisting of an amount that is the greater of:

14 (a) The total gross income or value to the defendant of
15 the victim's labor or services; or

16 (b) The value of the victim's labor or services, as
17 guaranteed under the minimum wage provisions of
18 chapter 387 or the Fair Labor Standards Act of 1938,
19 P.L. 75-718, 29 United States Code 201 - 219,
20 inclusive, whichever is greater.



1 (2) The return of the victim to the victim's home country
2 or other absence of the victim from the jurisdiction shall not
3 relieve the defendant of the defendant's restitution obligation.

4 (3) For purposes of this section, "victim" means the
5 person against whom an offense specified in section 707-B or
6 707-C has been committed.

7 **§707-G Offense of nonpayment of wages.** (1) A person
8 commits the offense of nonpayment of wages if the person, in the
9 capacity of an employer of an employee, wilfully or with intent
10 to defraud fails or refuses to pay wages to the employee. In
11 addition to any other penalty, a person convicted of nonpayment
12 of wages shall be fined not less than \$2,000 nor more than
13 \$10,000 for each offense.

14 (2) The offense of nonpayment of wages is:

15 (a) A class C felony, if the amount owed to the employee
16 is equal to or greater than \$2,000 or if the person
17 convicted of nonpayment of wages falsely denies the
18 amount or validity of the wages owed; or

19 (b) A misdemeanor, if the amount owed to the employee is
20 less than \$2,000.

21 (3) A person commits a separate offense under this section
22 for each pay period during which the employee earned wages that



1 the person failed or refused to pay the employee. If no set pay
2 periods were agreed upon between the person and the employee at
3 the time the employee commenced the work, then each "pay period"
4 shall be deemed to be bi-weekly.

5 (4) In addition to any other penalty, the court shall
6 order restitution to be paid to the employee, consisting of an
7 amount that is the greater of:

8 (a) The wages earned by the employee that were unpaid by
9 the person convicted of nonpayment of wages; or

10 (b) The value of the employee's labor or services, as
11 guaranteed under the minimum wage provisions of
12 chapter 387 or the Fair Labor Standards Act of 1938,
13 P.L. 75-718, 29 United States Code 201 - 219,
14 inclusive, whichever is greater.

15 (5) An employee who is the victim of nonpayment of wages
16 may bring a civil action to recover all wages owed by the person
17 convicted of nonpayment of wages.

18 (6) For purposes of this section:

19 "Employee" means any person working for another for hire,
20 including but not limited to an individual employed in domestic
21 service or at a family or person's home or any individual



1 employed by the individual's parent or spouse, or independent
2 contractors.

3 "Person" includes any individual, partnership, association,
4 joint-stock company, trust, corporation, the personal
5 representative of the estate of a deceased individual, or the
6 receiver, trustee, or successor of any of the same, employing
7 any persons, but shall not include the United States.

8 "Wages" means compensation for labor or services rendered
9 by an employee, whether the amount is determined on a time,
10 task, piece, commission, or other basis of calculation.

11 **§707-H Offense of unlawful conduct with respect to**
12 **documents.** (1) A person commits the offense of unlawful
13 conduct with respect to documents if the person knowingly
14 destroys, conceals, removes, confiscates, or possesses any
15 actual or purported government identification document of
16 another person:

17 (a) In the course of a violation or attempt to commit an
18 offense under section 707-B or 707-C; or

19 (b) To prevent or restrict, or in an attempt to prevent or
20 restrict, without lawful authority, the ability of the
21 other person to move or travel, to maintain the labor
22 or services of the other person, when the person is or



1 designed to institute, aid, or facilitate an act or enterprise
2 of prostitution.

3 "Profits", with respect to prostitution, as applicable,
4 means, if, acting other than as a prostitute, receiving
5 compensation for personally-rendered prostitution services, as
6 applicable, the person accepts or receives money or other
7 property, in any form or manner, pursuant to an agreement or
8 understanding with any other person whereby the person
9 participates or is to participate in the proceeds of
10 prostitution.

11 "Prostitution" means the activity of engaging in, or
12 agreeing or offering to engage in, sexual conduct with another
13 person for a fee.

14 **§712-B Sex trafficking in the first degree.** (1) A person
15 commits the offense of sex trafficking in the first degree if
16 the person knowingly:

- 17 (a) Advances or profits from the prostitution of an
18 individual who is less than eighteen years of age; or
19 (b) Advances the prostitution of an individual by the use
20 of any of the following against or to the individual:
21 (i) Extortion in violation of section 707-764;
22 (ii) Kidnapping in violation of section 707-720;



- 1 (iii) Unlawful imprisonment in violation of either
2 section 707-721 or 707-722;
- 3 (iv) Making material false statements, misstatements,
4 or omissions to induce or maintain the person
5 being prostituted to engage in or continue to
6 engage in prostitution;
- 7 (v) Requiring that prostitution be performed to
8 retire, repay, or service a real or purported
9 debt;
- 10 (vi) Assault in violation of either section 707-710,
11 707-711, or 707-712; or
- 12 (vii) Unlawfully providing to the prostituted person
13 with intent to impair said person's judgment any
14 "dangerous drugs", "detrimental drugs", "harmful
15 drugs", or "intoxicating liquor" as defined in
16 section 712-1240.
- 17 (2) In a prosecution under subsection (1)(a) where it is
18 alleged that the person performing prostitution was under
19 eighteen years of age, the prosecution need not prove that the
20 defendant knew the person performing prostitution was under
21 eighteen years of age.



1 (3) Sex trafficking in the first degree is a class A
2 felony.

3 **§712-C Sex trafficking in the second degree.** (1) A
4 person commits the offense of sex trafficking in the second
5 degree if the person advances or profits from prostitution by
6 managing, supervising, controlling, or owning, either alone or
7 in association with others, a house of prostitution or
8 prostitution business or enterprise involving the prostitution
9 of an individual, knowing that the prostitution activity of the
10 individual was obtained, maintained, or advanced by any of the
11 methods set forth in section 712-B(1)(b)(i) through (vii)
12 against or to the individual.

13 (2) Sex trafficking in the second degree is a class B
14 felony.

15 **§712-D Rights of alleged trafficking victims.** It shall be
16 a complete defense to a charge under section 712-B, 712-C, or
17 712-1200, that the act alleged to have been committed by the
18 accused was obtained, maintained, or advanced by any of the
19 methods set forth in section 712-B(1)(b)(i) through (vii)
20 against or to the accused."



1 PART VI

2 * SECTION 9. In codifying the new sections added by sections
3 7 and 8 of this Act, the revisor of statutes shall substitute
4 appropriate section numbers for the letters used in designating
5 the new sections in this Act.

6 SECTION 10. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 11. This Act shall take effect on July 1, 2050.



Report Title:

Anonymous Filings; Labor and Sex Trafficking

Description:

Allows a plaintiff to file court documents as "Jane Doe" or "John Doe" under certain circumstances in seeking an injunction in harassment cases. Requires that certain types of powers of attorney be signed by two qualified witnesses and acknowledged by a notary public. Requires challenges or contests to a will, estate plan, or trust be made within a certain time period. Makes it first degree murder to kill a witness in a family court case. Establishes the offenses of labor trafficking and sex trafficking in the first and second degree. Effective July 1, 2050. (SB77 HD1)

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