
A BILL FOR AN ACT

RELATING TO THE COURTS.

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

- 1 SECTION 1. Chapter 634, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:
- 4 **"PART . ANONYMOUS FILINGS**
- 5 **§634- Anonymous filings.** (a) Upon petition to a court
6 under this section, the court may allow a petition, complaint,
7 motion, or other document to be filed identifying the parties as
8 "jane doe" or "john doe"; provided that when deciding to permit
9 a "jane doe" or "john doe" filing, the court may consider the
10 following factors, including but not limited to:
- 11 (1) The severity of the plaintiff's injury;
- 12 (2) The reasonableness of the plaintiff's fears;
- 13 (3) The plaintiff's vulnerability to retaliation;
- 14 (4) The risk of prejudice to the defendant; and
- 15 (5) How the public interest would be served if the
16 plaintiff is allowed to remain anonymous.
- 17 (b) If there are compelling reasons sufficient to outweigh
18 the public's disclosure and it is the belief of the court that



1 such court files may become a vehicle for improper use, the
2 court may seal from the public all documents or portions of
3 documents that would identify the parties or contain sufficient
4 information from which the parties' identities could be
5 discerned or inferred."

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

8 "§604-10.5 Power to enjoin and temporarily restrain
9 harassment. (a) For the purposes of this section:

10 "Course of conduct" means a pattern of conduct composed of
11 a series of acts over any period of time evidencing a continuity
12 of purpose.

13 "Harassment" means:

- 14 (1) Physical harm, bodily injury, assault, or the threat
15 of imminent physical harm, bodily injury, or assault;
16 or
17 (2) An intentional or knowing course of conduct directed
18 at an individual that seriously alarms or disturbs
19 consistently or continually bothers the individual,
20 and that serves no legitimate purpose; provided that
21 such course of conduct would cause a reasonable person
22 to suffer emotional distress.



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

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

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

14 (e) Upon petition to a district court under this section,
15 the court may allow a petition, complaint, motion, or other
16 document to be filed identifying the petitioner as "jane doe" or
17 "john doe"; provided that the court finds that the "jane doe" or
18 "john doe" filing is reasonably necessary to protect the privacy
19 of the petitioner and will not unduly prejudice the prosecution
20 or the defense.



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

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

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

19 [~~(f)~~] (g) A temporary restraining order that is granted
20 under this section shall remain in effect at the discretion of
21 the court for a period not to exceed ninety days from the date
22 the order is granted. A hearing on the petition to enjoin



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

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

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

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

19 [~~(h)~~] (i) A knowing or intentional violation of a
20 restraining order or injunction issued pursuant to this section
21 is a misdemeanor. The court shall sentence a violator to



1 appropriate counseling and shall sentence a person convicted
2 under this section as follows:

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

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

13 The court may suspend any jail sentence, except for the
14 mandatory sentences under paragraphs (1) and (2), upon
15 appropriate conditions, such as that the defendant remain
16 alcohol and drug-free, conviction-free, or complete court-
17 ordered assessments or counseling. The court may suspend the
18 mandatory sentences under paragraphs (1) and (2) where the
19 violation of the injunction or restraining order does not
20 involve violence or the threat of violence. Nothing in this
21 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 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

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

8



Report Title:

Courts; Jane Doe and John Doe Filings; Identifying Information; Privacy

Description:

Permits a court to allow a petition, complaint, motion, or other document to be filed identifying the parties as "jane doe" or "john doe; permits a court to use a multi-factor balancing test when determining if an anonymous filing is appropriate. Permits a court to allow an alleged victim to be listed as "jane doe" or "john doe" within court filings when petitioning for a temporary restraining order and an injunction from further harassment; provided that the court determines it would be necessary to protect the privacy of the petitioner. Also permits courts to seal court records associated with the "jane doe" or "john doe" filing under certain circumstances. (Proposed SD1)

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

