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# 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 586-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Imminent" means the state or condition of being  
5 reasonably likely to occur at any moment or near at hand, rather  
6 than distant or remote."

7 SECTION 2. Section 586-3, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9 "(c) A petition for relief shall be in writing upon forms  
10 provided by the court and shall [~~allege~~]:

11 (1) Allege, under penalty of perjury, that: [a]

12 (A) A past act or acts of abuse may have occurred;  
13 [~~threats~~]

14 (B) Threats of abuse make it probable that acts of  
15 abuse may be imminent; or [~~extreme~~]

16 (C) Extreme psychological abuse or malicious property  
17 damage is imminent; [~~and be~~]



1       (2) Be accompanied by an affidavit made under oath or a  
2           statement made under penalty of perjury stating the  
3           specific facts and circumstances from which relief is  
4           sought[-]; and

5       (3) Disclose current and pending litigation in family  
6           court, offenses relating to domestic abuse, or  
7           offenses against the person involving the petitioner;  
8           provided that a petitioner who fails to comply with  
9           this paragraph shall be liable for any reasonable  
10          attorney's fees incurred by the respondent in  
11          connection with the petition."

12       SECTION 3. Section 604-10.5, Hawaii Revised Statutes, is  
13 amended as follows:

14       1. By amending subsection (a) by adding two new  
15 definitions to be appropriately inserted and to read:

16       "Imminent" means the state or condition of being  
17 reasonably likely to occur at any moment or near at hand, rather  
18 than distant or remote.

19       "Served" means actual personal service, service by  
20 certified mail, or proof that a respondent under this section  
21 was present at the hearing at which a court orally issued an  
22 injunction pursuant to this section."

1 2. By amending subsection (d) to read:

2 "(d) A petition for relief from harassment shall ~~[be]~~:

3 (1) Be in writing [and shall allege];

4 (2) Allege that a past act or acts of harassment may have

5 occurred or that threats of harassment make it

6 probable that acts of harassment may be imminent; ~~[and~~

7 ~~shall be]~~

8 (3) Be accompanied by an affidavit made under oath or

9 statement made under penalty of perjury stating the

10 specific facts and circumstances for which relief is

11 sought[-]; and

12 (4) Disclose current and pending litigation in district

13 court, offenses relating to domestic abuse, or

14 offenses against the person involving the petitioner;

15 provided that a petitioner who fails to comply with

16 this paragraph shall be liable for any reasonable

17 attorney's fees incurred by the respondent in

18 connection with the petition."

19 3. By amending subsections (g) and (h) to read:

20 "(g) A temporary restraining order that is granted under

21 this section shall remain in effect at the discretion of the

22 court for a period not to exceed ninety days from the date the



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

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

14 If the court finds by clear and convincing evidence that  
15 harassment as defined in paragraph (1) of that definition  
16 exists, it may enjoin for no more than three years further  
17 harassment of the petitioner, or that harassment as defined in  
18 paragraph (2) of that definition exists, it shall enjoin for no  
19 more than three years further harassment of the petitioner;  
20 provided that this paragraph shall not prohibit the court from  
21 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 at which~~  
7 ~~the court orally issued the injunction.] Where service of a  
8 restraining order or injunction has been made or where the  
9 respondent is deemed to have received notice of a restraining  
10 order or injunction order, any knowing or intentional violation  
11 of the restraining order or injunction order shall subject the  
12 respondent to the provisions in subsection (i).~~

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

17 (h) [~~The~~] Subject to subsection (d)(4), the court may  
18 grant the prevailing party in an action brought under this  
19 section costs and fees, including attorney's fees."

20 SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Temporary Restraining Orders; Disclosure of Current and Pending Litigation

**Description:**

Requires petitioners for temporary restraining orders to disclose current and pending litigation in family court or district court, offenses relating to domestic abuse, or offenses against the person involving the petitioner. Defines "imminent" with regard to the type of harm for which a temporary restraining order may be issued. Effective July 1, 2050.  
(HB1729 HD1)

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

