
A BILL FOR AN ACT

RELATING TO FAMILY COURT PROTECTIVE ORDERS.

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

1 SECTION 1. The legislature finds that family court
2 temporary restraining orders and orders for protection, tools
3 meant for protection and justice in our judicial system, are
4 sometimes utilized instead as tools for mayhem in personal
5 disputes, and filed falsely with the goal of disrupting personal
6 lives. This places unnecessary burden on our already-stressed
7 family court system, and adversely impacts potentially innocent
8 persons in terms of time defending against baseless accusations,
9 multiple trips to attorneys, the courthouse, and time and
10 expense spent on litigation.

11 The legislature also finds that while protective orders
12 serve the purpose of protecting our community, there is a need
13 to deter petitioners from filing false applications for
14 protective orders by clearly informing them of the legal
15 penalties for doing so. There must also be a clear remedy
16 available to respondents against whom false accusations are
17 made, that allows them to recover - in the same family court



1 protective order case - reasonable attorneys' fees and costs
2 incurred in the course of defending against the false
3 accusations, without having to expend even more time, effort,
4 and money to file a separate civil action to recoup those
5 expenses.

6 The purpose of this Act is to:

- 7 (1) Put persons who petition for family court protective
8 orders on clear notice as to what constitutes
9 "perjury" when signing a petition for an order for
10 protection, by requiring that family court forms
11 contain certain language specifying what "perjury"
12 means and the criminal penalties that can be imposed
13 if convicted of that offense; and
- 14 (2) Provide a clear remedy to respondents against whom
15 false accusations are made in family court petitions
16 for an order for protection, by authorizing the family
17 court to award, in the same case, reasonable
18 attorneys' fees and costs incurred in the course of
19 defending the false accusations, without the
20 respondent having to file a separate civil action to
21 recoup those expenses.



1 SECTION 2. Section 586-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§586-3 Order for protection.** (a) There shall exist an
4 action known as a petition for an order for protection in cases
5 of domestic abuse.

6 (b) A petition for relief under this chapter may be made
7 by:

8 (1) Any family or household member on the member's own
9 behalf or on behalf of a family or household member
10 who is a minor or who is an incapacitated person as
11 defined in section 560:5-102 or who is physically
12 unable to go to the appropriate place to complete or
13 file the petition; or

14 (2) Any state agency on behalf of a person who is a minor
15 or who is an incapacitated person as defined in
16 section 560:5-102 or a person who is physically unable
17 to go to the appropriate place to complete or file the
18 petition on behalf of that person.

19 (c) A petition for relief shall be in writing upon forms
20 provided by the court and shall allege, under penalty of
21 perjury, that: a past act or acts of abuse may have occurred;



1 threats of abuse make it probable that acts of abuse may be
2 imminent; or extreme psychological abuse or malicious property
3 damage is imminent; and be accompanied by an affidavit made
4 under oath or a statement made under penalty of perjury stating
5 the specific facts and circumstances from which relief is
6 sought. Any forms provided by the court that reference perjury
7 shall include a legal definition of perjury, and shall state
8 that perjury is a class C felony punishable by up to five years
9 imprisonment and a \$10,000 fine.

10 (d) The family court shall designate an employee or
11 appropriate nonjudicial agency to assist the person in
12 completing the petition.

13 (e) In the event the family court subsequently finds that
14 a petitioner for an order for protection made any materially
15 false statement of fact that the petitioner did not believe to
16 be true at the time of signing the petition, then regardless of
17 whether a temporary restraining order or order for protection
18 was ultimately granted in favor of the petitioner, the family
19 court is authorized to award the respondent, in the same court
20 proceeding, reasonable attorneys' fees and costs incurred by the
21 respondent in the course of responding to the false petition."



1 SECTION 3. Section 586-4, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) The family court judge may issue the ex parte
4 temporary restraining order orally, if the person being
5 restrained is present in court. The order shall state that
6 there is probable cause to believe that a past act or acts of
7 abuse have occurred, or that threats of abuse make it probable
8 that acts of abuse may be imminent, and shall state that the
9 family court is authorized to award the respondent reasonable
10 attorneys' fees and costs incurred by the respondent in the
11 course of responding to the false petition if it subsequently
12 finds that the petitioner made any materially false statement of
13 fact that the petitioner did not believe to be true at the time
14 of signing the petition for an order for protection. The order
15 further shall state that the temporary restraining order is
16 necessary for the purposes of: preventing acts of abuse or
17 preventing a recurrence of actual domestic abuse and ensuring a
18 period of separation of the parties involved. The order shall
19 also describe in reasonable detail the act or acts sought to be
20 restrained. Where necessary, the order may require either or
21 both of the parties involved to leave the premises during the



1 period of the order; may also restrain the party or parties to
2 whom it is directed from contacting, threatening, or physically
3 abusing the applicant's family or household members; and may
4 enjoin or restrain both parties from taking, concealing,
5 removing, threatening, physically abusing, or otherwise
6 disposing of any animal identified to the court as belonging to
7 a household, until further order of the court. The order shall
8 not only be binding upon the parties to the action, but also
9 upon their officers, agents, servants, employees, attorneys, or
10 any other persons in active concert or participation with them.
11 The order shall enjoin the respondent or person to be restrained
12 from performing any combination of the following acts:

13 (1) Contacting, threatening, or physically abusing the
14 protected party;

15 (2) Contacting, threatening, or physically abusing any
16 person residing at the protected party's residence;

17 (3) Entering or visiting the protected party's residence;
18 or

19 (4) Taking, concealing, removing, threatening, physically
20 abusing, or otherwise disposing of any animal



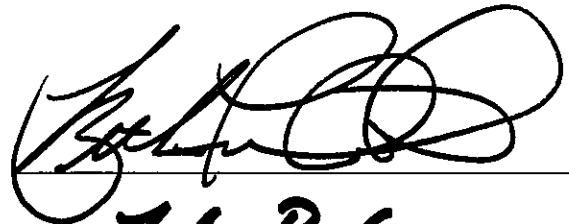
1 identified to the court as belonging to a household,
2 until further order of the court."

3 SECTION 4. New statutory material is underscored.

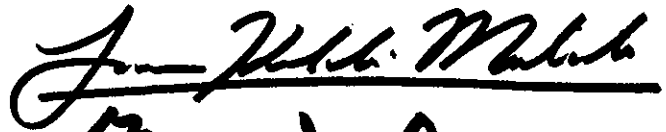
4 SECTION 5. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 6. This Act shall take effect on September 1,
8 2016.

9 INTRODUCED BY:



Fehi Paula



Bullwood

JAN 22 2016



H.B. NO. 20 89

Report Title:

Family Court; Order for Protection; Petitioner

Description:

Requires family court forms for protective orders to define "perjury" and specify criminal penalties. Authorizes family court to award respondent reasonable attorneys' fees and costs if court finds petitioner made any materially false statement of fact at the time of signing the petition.

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

