
A BILL FOR AN ACT

RELATING TO ANNULMENT, DIVORCE, AND SEPARATION.

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

1 SECTION 1. The legislature finds that it reduces family
2 court congestion to have automatic orders in place similar to
3 those in California and Massachusetts upon the filing of a
4 divorce to prevent parties from dissipating or hiding assets and
5 to create a level field for nonrepresented parties. Currently,
6 unless one is knowledgeable about filing a motion for temporary
7 orders, a nonrepresented party is caught unaware about the
8 party's rights and obligations to maintain the status quo until
9 a court hearing.

10 SECTION 2. Chapter 580, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§580- Automatic restraining order. (a) Both parties
14 to a complaint for annulment, divorce, or separation shall be
15 subject to a restraining order that shall be effective with
16 regard to the plaintiff upon the filing of the complaint and
17 with regard to the defendant upon service of the summons and



1 complaint or any other acceptance of service by the defendant.

2 The restraining order shall specify that:

3 (1) Neither party shall sell, transfer, encumber, conceal,
4 assign, remove, or in any way dispose of any property,
5 real or personal, belonging to or acquired by, either
6 party, except as:

7 (A) Required for reasonable expenses of living;

8 (B) Done in the ordinary and usual course of
9 business;

10 (C) Required for payment of reasonable attorney's
11 fees and costs in connection with the action;

12 (D) Done pursuant to a written agreement of both
13 parties; or

14 (E) Required by order of the court;

15 (2) Neither party shall incur any further debts, except
16 reasonable amounts necessary for living and business
17 expenses, including the children's educational
18 expenses, and reasonable litigation fees and costs for
19 the pending action, that would burden the credit of
20 the other party, including but not limited to further
21 borrowing against any credit line secured by the



1 marital residence or unreasonably using credit cards
2 or cash advances against credit or bank cards;

3 (3) Neither party shall directly or indirectly change the
4 beneficiary of any life insurance policy, pension or
5 retirement plan, or pension or retirement investment
6 account, except with the written consent of the other
7 party or by order of the court;

8 (4) Neither party shall directly or indirectly cause the
9 other party or the minor children to be removed from
10 coverage under an existing insurance policy, including
11 medical, dental, life, automobile, and disability
12 insurance. The parties shall maintain all insurance
13 coverage in full force and effect; and

14 (5) Neither party shall remove the parties' minor children
15 from the island of that child's current residence nor
16 remove the parties' minor children from the school
17 that child is currently attending.

18 (b) After service of the complaint for annulment, divorce,
19 or separation, the defendant may file a motion to set aside or
20 modify the restraining order and may choose to file the motion
21 without submitting to the jurisdiction of the court. The court



1 shall proceed to hear and determine the motion as expeditiously
2 as possible.

3 (c) The restraining order shall remain in effect during
4 the pendency of the action, unless it is modified by agreement
5 of the parties or by further order of the court.

6 (d) The provisions of the restraining order shall be
7 issued by the family court and a copy thereof shall be served
8 with every complaint to which it applies. If service is by
9 publication, the public notice shall include a statement that a
10 restraining order has been issued by the court. The provisions
11 of the restraining order need not be reprinted in the public
12 notice.

13 (e) The restraining order shall be vacated upon the entry
14 of an annulment, divorce, or separation decree."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Automatic Restraining Order; Annulment; Divorce; Separation

Description:

Imposes a restraining order that preserves the financial assets of the parties and their dependents upon the commencement of annulment, divorce, or separation court action. (HB80 HD1)

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