

JAN 22 2021

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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 604-10.5, Hawaii Revised Statutes, is  
2 amended as follows:

3       1. By amending subsection (a) to read:

4       "(a) For the purposes of this section:

5       "Course of conduct" means a pattern of conduct composed of  
6 a series of acts over any period of time evidencing a continuity  
7 of purpose.

8       "Harassment" means:

9       (1) Physical harm, bodily injury, assault, or the threat  
10       of imminent physical harm, bodily injury, or assault;  
11       or

12       (2) An intentional or knowing course of conduct directed  
13       at an individual that seriously alarms or disturbs  
14       consistently or continually bothers the individual and  
15       serves no legitimate purpose; provided that such  
16       course of conduct would cause a reasonable person to  
17       suffer emotional distress.



1       "Stay-at-home or safer-at-home order or advisory" means a  
2       mandate or recommendation issued by the governor or a mayor that  
3       prohibits persons from leaving their residence during an  
4       emergency period."

5       2. By amending subsection (i) to read:

6       "(i) A knowing or intentional violation of a restraining  
7       order or injunction issued pursuant to this section is a  
8       misdemeanor. The court shall sentence a violator to appropriate  
9       counseling and shall sentence a person convicted under this  
10      section as follows:

11      (1) For a violation of an injunction or restraining order  
12      that occurs after a conviction for a violation of the  
13      same injunction or restraining order, the person shall  
14      be sentenced to a mandatory minimum jail sentence of  
15      not less than forty-eight hours; ~~and~~ provided that  
16      for any violation of an injunction or restraining  
17      order that occurs after a conviction for a violation  
18      of the same injunction or restraining order and that  
19      occurs during a stay-at-home or safer-at-home order or  
20      advisory declared pursuant to chapter 127A, the person  
21      shall be sentenced to a mandatory minimum jail



1           sentence of no less than thirty days and a fine of no  
2           less than \$5,000; and

3           (2) For any subsequent violation that occurs after a  
4           second conviction for violation of the same injunction  
5           or restraining order, the person shall be sentenced to  
6           a mandatory minimum jail sentence of not less than  
7           thirty days.

8           The court may suspend any jail sentence, except for the  
9           mandatory sentences under paragraphs (1) and (2), upon  
10          appropriate conditions, such as that the defendant remain  
11          alcohol- and drug-free, conviction-free, or complete court-  
12          ordered assessments or counseling. The court may suspend the  
13          mandatory sentences under paragraphs (1) and (2) where the  
14          violation of the injunction or restraining order does not  
15          involve violence or the threat of violence. Nothing in this  
16          section shall be construed as limiting the discretion of the  
17          judge to impose additional sanctions authorized in sentencing  
18          for a misdemeanor offense."

19          SECTION 2. This Act does not affect rights and duties that  
20          matured, penalties that were incurred, and proceedings that were  
21          begun before its effective date.




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1       SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 



# S.B. NO. 638

**Report Title:**

Temporary Restraining Orders; Repeat Offenders; Stay at Home Orders

**Description:**

Increases the penalties for repeat TRO offenders who violate the TRO during a stay-at-home or safer-at-home order or advisory issued by the Governor or a Mayor.

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

