

ACT 75

S.B. NO. 933

A Bill for an Act Relating to Temporary Restraining Orders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, since the onset of the coronavirus disease 2019 pandemic, there has been an increase in gender-based violence against women in Hawai‘i, particularly through intimate partner violence. Further, the Domestic Violence Action Center’s Helpline reported a forty-six per cent increase in calls to report cases of domestic and intimate partner violence from late March to early October 2022. The legislature notes that, though temporary restraining order (TRO) petitions are initially acted upon by a family court judge without a court hearing, a mandatory hearing is held within fifteen days of a TRO being granted in order to determine whether the TRO should remain in effect.

The legislature further finds that the adversarial nature of the legal system requires petitioners who have received TROs to face their alleged abusers in court during these hearings. The legislature also finds that, notwithstanding the safety protocols that the judiciary takes to protect parties during in-person TRO hearings, the physical presence of the parties within the same room may allow for respondents to intimidate petitioners through words or body language. Further, a 2020 study by the University of Arizona found that eighty-one per cent of legal advocates indicated that many, most, or all of their clients identified the behaviors of the alleged abuser or abusers’ associates in court as a source of re-traumatization. The legislature also notes that survivors of domestic and intimate partner violence often lack access to transportation, child care, and paid

time off, which can make mandatory in-person hearings especially burdensome for petitioners.

Accordingly, the purpose of this Act is to:

- (1) Authorize the family courts to allow petitioners to attend TRO hearings remotely upon request;
- (2) Require the family courts to consider certain factors when approving a request for remote attendance; and
- (3) Require the family courts to allow petitioners who allege domestic abuse to attend TRO hearings remotely.

SECTION 2. Section 586-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court, after giving due notice to all parties, shall hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing; provided that the date shall not exceed ninety days from the date the temporary restraining order was granted. All parties shall ~~[be present at]~~ attend the hearing and may be represented by counsel. The court shall allow the petitioner to attend the hearing remotely if the petitioner’s allegations include at least one allegation of domestic abuse as defined in section 586-1. In cases where the petitioner’s allegations do not include at least one allegation of domestic abuse as defined in section 586-1, the court may allow the petitioner to attend the hearing remotely, with consideration of factors such as the petitioner’s lack of transportation, child care, and paid time off, as well as the petitioner’s fear of the respondent’s presence.

The protective order may include all orders stated in the temporary restraining order and may provide further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention.”

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

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

(Approved June 14, 2023.)