



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

GOV. MSG. NO. 1322

July 12, 2018

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB1614 HD1 SD1 CD1

HB1614 HD1 SD1 CD1, entitled "A BILL FOR AN ACT RELATING TO AUTOMATIC RESTRAINING ORDERS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to add a new section to Chapter 580, HRS, which requires that an automatic restraining order be issued when a complaint is filed for an annulment, divorce, or separation.

The legislative intent is to preserve the assets of the parties and their dependents and to maintain the current island of residence and school of enrollment of any minor children of the parties. In addition, the legislature hopes that family court congestion can be reduced by providing automatic orders. Previously, only the Kaua'i family court automatically issued restraining orders for annulment, divorce, or separation cases. With enactment of this law, this process will now be uniform state-wide.

Concerns were expressed in testimony about the potential negative impacts this new law may have, especially on victims of domestic violence filing for divorce. We will consult with the Judiciary and others in the coming months to determine whether



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amendments to this law are necessary should there be unintended negative consequences.

For the foregoing reasons, HB1614 HD1 SD1 CD1 will become law as ACT 213 (18), Session Laws of Hawai'i 2018, effective July 10, 2018, without my signature.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Permitted to become law without the **ORIGINAL**

Governor's signature JUL 10 2018

ACT 213

HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

H.B. NO.

1614
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO AUTOMATIC RESTRAINING ORDERS.

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

1 SECTION 1. The legislature finds that family court
2 congestion can be reduced by providing for orders that
3 automatically take effect when parties file for divorce. In
4 California and Massachusetts, for example, automatic orders
5 prevent parties from disposing of or hiding assets and help to
6 create a level playing field for unrepresented parties. The
7 legislature further finds that unless one is knowledgeable about
8 initiating a motion for a restraining order under section
9 580-10, Hawaii Revised Statutes, an unrepresented party is often
10 unaware of the party's rights and obligations to maintain the
11 status quo until a court hearing can be held. Moreover, those
12 who have superior financial means may use their wealth to
13 pressure those who have lesser financial means to settle for
14 less than they are entitled to.

15 Nothing in this Act is intended to supersede any existing
16 order entered pursuant to chapter 586, Hawaii Revised Statutes,
17 or any similar domestic abuse protective order.



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

4 "§580- Automatic restraining order. (a)

5 Notwithstanding section 580-10, each party to a complaint for
6 annulment, divorce, or separation shall automatically be subject
7 to a restraining order that shall be effective with regard to
8 the plaintiff upon the filing of the complaint and with regard
9 to the defendant upon service of the summons and complaint or
10 any other acceptance of service by the defendant. The
11 restraining order shall specify that:

12 (1) Neither party shall sell, transfer, encumber, conceal,
13 assign, remove, or in any way dispose of any property,
14 real or personal, belonging to or acquired by either
15 party, except as:

16 (A) Required for reasonable expenses of living;

17 (B) Occurring in the ordinary and usual course of
18 business;

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



- 1 (D) Occurring pursuant to a written agreement of both
2 parties; or
- 3 (E) Required by order of the court;
- 4 (2) Neither party shall incur any further debts that would
5 burden the credit of the other party, including but
6 not limited to further borrowing against any credit
7 line secured by the marital residence or unreasonably
8 using credit cards or cash advances against credit or
9 bank cards; provided that this paragraph shall not
10 apply to reasonable amounts of debt necessary for
11 living and business expenses, including child
12 educational expenses and reasonable litigation fees
13 and costs for the pending action;
- 14 (3) Neither party shall directly or indirectly change the
15 beneficiary of any life insurance policy, pension or
16 retirement plan, or pension or retirement investment
17 account, except with the written consent of the other
18 party or by order of the court;
- 19 (4) Neither party shall directly or indirectly cause the
20 other party or a minor child to be removed from
21 coverage under an existing insurance policy, including



1 medical, dental, life, automobile, and disability
2 insurance. The parties shall maintain all insurance
3 coverage in full force and effect; and

4 (5) Neither party shall remove a minor child of the
5 parties from the island of that child's current
6 residence nor remove a minor child of the parties from
7 the school that child is currently attending.

8 (b) After service of the complaint for annulment, divorce,
9 or separation, the defendant may file a motion to set aside or
10 modify the restraining order and may choose to file the motion
11 without submitting to the jurisdiction of the court. The court
12 shall proceed to hear and determine the motion as expeditiously
13 as possible.

14 (c) It is a defense to any enforcement action under this
15 section that an act of domestic abuse as defined in section
16 586-1 has occurred.

17 (d) Any sanction for any violation of this section shall
18 remain within the discretion of the court, which shall take into
19 account any instance of domestic abuse and the best interests of
20 the child for violations of subsection (a) (5).



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

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

11 (g) The restraining order shall be vacated upon the entry
12 of an annulment, divorce, or separation decree.

13 (h) An automatic restraining order shall not be imposed
14 under this section if a written order was previously imposed
15 under this chapter for a similar purpose."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2018.



HB No. 1614, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki
Speaker
House of Representatives



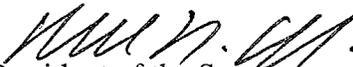
Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 1614, H.D. 1, S.D. 1, C.D. 1

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2018
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


President of the Senate


Clerk of the Senate