

JAN 20 2017

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# 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 non-represented parties. Currently,  
6 unless one is knowledgeable about filing a motion for temporary  
7 orders, a non-represented party is caught unawares 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 that would  
16 burden the credit of the other party, including but  
17 not limited to further borrowing against any credit  
18 line secured by the marital residence or unreasonably  
19 using credit cards or cash advances against credit or  
20 bank cards;



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

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

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

16       (b) After service of the complaint for annulment, divorce,  
17       or separation, on two days' notice to the other party or on  
18       shorter notice as the court may prescribe, a party may appear  
19       without thereby submitting oneself to the jurisdiction of the  
20       court, and move to modify or dissolve the restraining order.



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1 The court shall proceed to hear and determine the motion as  
2 expeditiously 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, 2017.

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INTRODUCED BY:

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# S.B. NO. 166

**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.

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

