

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO TEMPORARY RESTRAINING ORDERS, PROTECTIVE ORDERS, AND  
INJUNCTIONS.

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

1           SECTION 1. The legislature finds that temporary  
2   restraining orders, protective orders, and injunctions  
3   restraining a person from contacting, threatening, physically  
4   abusing, or harassing a minor typically are issued to expire  
5   when the minor reaches the age of majority because there is  
6   ambiguity whether the courts have the authority to issue these  
7   orders for a period that extends beyond the date when the minor  
8   turns eighteen years of age. This forces the now eighteen-year-  
9   old who was previously protected to return to court and complete  
10  the process again.

11           The purpose of this Act is to clarify that the courts have  
12  the authority to issue temporary restraining orders, protective  
13  orders, and injunctions for reasonable time periods that expire  
14  after a protected minor reaches the age of majority.

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



1           "(a) A temporary restraining order granted pursuant to  
2 this chapter shall remain in effect at the discretion of the  
3 court, for a period not to exceed one hundred eighty days from  
4 the date the order is granted or until the effective date, as  
5 defined in section 586-5.6, of a protective order issued by the  
6 court, whichever occurs first[-], including, in the case where a  
7 temporary restraining order restrains any party from contacting,  
8 threatening, or physically abusing a minor, for a period  
9 extending to a date after the minor has reached eighteen years  
10 of age."

11           SECTION 3. Section 586-5.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§586-5.5 Protective order; additional orders.** (a) If,  
14 after hearing all relevant evidence, the court finds that the  
15 respondent has failed to show cause why the order should not be  
16 continued and that a protective order is necessary to prevent  
17 domestic abuse or a recurrence of abuse, the court may order  
18 that a protective order be issued for a further fixed reasonable  
19 period as the court deems appropriate[-], including, in the case  
20 where a protective order restrains any party from contacting,  
21 threatening, or physically abusing a minor, a fixed reasonable



1 period extending to a date after the minor has reached eighteen  
2 years of age.

3       The protective order may include all orders stated in the  
4 temporary restraining order and may provide for further relief  
5 as the court deems necessary to prevent domestic abuse or a  
6 recurrence of abuse, including orders establishing temporary  
7 visitation and custody with regard to minor children of the  
8 parties and orders to either or both parties to participate in  
9 domestic violence intervention services. If the court finds  
10 that the party meets the requirements under section  
11 334-59(a)(2), the court further may order that the party be  
12 taken to the nearest facility for emergency examination and  
13 treatment.

14       (b) A protective order may be extended for [~~such~~] a  
15 further fixed reasonable period as the court deems  
16 appropriate[-], including, in the case where a protective order  
17 restrains any party from contacting, threatening, or physically  
18 abusing a minor, for a fixed reasonable period extending to a  
19 date after the minor has reached eighteen years of age. Upon  
20 application by a person or agency capable of petitioning under  
21 section 586-3, the court shall hold a hearing to determine



1 whether the protective order should be extended. In making a  
2 determination, the court shall consider evidence of abuse and  
3 threats of abuse that occurred prior to the initial restraining  
4 order and whether good cause exists to extend the protective  
5 order.

6 The extended protective order may include all orders stated  
7 in the preceding restraining order and may provide such further  
8 relief as the court deems necessary to prevent domestic abuse or  
9 a recurrence of abuse, including orders establishing temporary  
10 visitation and custody with regard to minor children of the  
11 parties and orders to either or both parties to participate in  
12 domestic violence intervention services. The court may  
13 terminate the extended protective order at any time with the  
14 mutual consent of the parties."

15 SECTION 4. Section 604-10.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (g) to read as follows:

17 "(g) A temporary restraining order that is granted under  
18 this section shall remain in effect at the discretion of the  
19 court for a period not to exceed ninety days from the date the  
20 order is granted[-], including, in the case where a temporary  
21 restraining order restrains any party from harassing a minor,



1 for a period extending to a date after the minor has reached  
2 eighteen years of age. A hearing on the petition to enjoin  
3 harassment shall be held within fifteen days after the temporary  
4 restraining order is granted. If service of the temporary  
5 restraining order has not been effected before the date of the  
6 hearing on the petition to enjoin, the court may set a new date  
7 for the hearing; provided that the new date shall not exceed  
8 ninety days from the date the temporary restraining order was  
9 granted.

10 The parties named in the petition may file or give oral  
11 responses explaining, excusing, justifying, or denying the  
12 alleged act or acts of harassment. The court shall receive all  
13 evidence that is relevant at the hearing and may make  
14 independent inquiry.

15 If the court finds by clear and convincing evidence that  
16 harassment as defined in paragraph (1) of that definition  
17 exists, it may enjoin for no more than three years further  
18 harassment of the petitioner, or that harassment as defined in  
19 paragraph (2) of that definition exists, it shall enjoin for no  
20 more than three years further harassment of the petitioner[+],  
21 including, in the case where any party is enjoined from



1 harassing a minor, for a period extending to a date after the  
2 minor has reached eighteen years of age; provided that this  
3 paragraph shall not prohibit the court from issuing other  
4 injunctions against the named parties even if the time to which  
5 the injunction applies exceeds a total of three years.

6 Any order issued under this section shall be served upon  
7 the respondent. For the purposes of this section, "served"  
8 shall mean actual personal service, service by certified mail,  
9 or proof that the respondent was present at the hearing at which  
10 the court orally issued the injunction.

11 Where service of a restraining order or injunction has been  
12 made or where the respondent is deemed to have received notice  
13 of a restraining order or injunction order, any knowing or  
14 intentional violation of the restraining order or injunction  
15 order shall subject the respondent to the provisions in  
16 subsection (i).

17 Any order issued shall be transmitted to the chief of  
18 police of the county in which the order is issued by way of  
19 regular mail, facsimile transmission, or other similar means of  
20 transmission."



# S.B. NO. 2346

1 SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 2346

**Report Title:**

Keiki Caucus; Temporary Restraining Orders; Injunctions;  
Protective Orders; Minors

**Description:**

Clarifies that the effective period of a protective order, temporary restraining order, or injunction restraining any party from contacting, threatening, or physically abusing a minor may extend to a date after the minor has reached 18 years of age.

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

