

JAN 21 2022

A BILL FOR AN ACT

RELATING TO DOMESTIC ABUSE.

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

1 SECTION 1. The legislature finds that in households with
2 abuse between parents, children who witness the abuse are also
3 victims despite not being physically harmed. These children
4 have a higher risk for long-term physical and mental health
5 problems. They have a greater risk of experiencing anxiety,
6 experiencing depression, and exhibiting violence in a future
7 relationship. Those children also more likely to externalize
8 behaviors such as fighting, bullying, lying, or cheating. They
9 also are more disobedient at home and at school, and are more
10 likely to have social competence problems, such as poor school
11 performance and difficulty in relationships with others.
12 Children who witness domestic violence also are also more likely
13 to resolve conflict by using violence.

14 The purpose of this Act is to clarify that minors who
15 reside in the same household as the victim of domestic abuse
16 have standing to file a petition for an order of protection or a
17 temporary restraining order.



1 SECTION 2. Section 586-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "domestic abuse" to read
3 as follows:

4 "Domestic abuse" means:

- 5 (1) Physical harm, bodily injury, assault, or the threat
6 of imminent physical harm, bodily injury, or assault,
7 extreme psychological abuse, coercive control, or
8 malicious property damage between family or household
9 members; [~~or~~]
- 10 (2) Any act which would constitute an offense under
11 section 709-906, or under part V or VI of chapter 707
12 committed against a minor family or household member
13 by an adult family or household member~~[+]~~; or
- 14 (3) Any of the acts under paragraphs (1) or (2) committed
15 in a household where a minor resides."

16 SECTION 3. Section 586-3, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) A petition for relief shall be in writing upon forms
19 provided by the court and shall allege, under penalty of
20 perjury, that: a past act or acts of abuse may have occurred;
21 threats of abuse make it probable that acts of abuse may be



1 imminent; or extreme psychological abuse or malicious property
2 damage is imminent; and be accompanied by an affidavit made
3 under oath or a statement made under penalty of perjury stating
4 the specific facts and circumstances from which relief is
5 sought. The court shall not require a complainant who is a
6 minor to demonstrate that the minor was the victim of the
7 domestic abuse if the petition alleges that the minor resided in
8 the same household as the victim of the domestic abuse."

9 SECTION 4. Section 586-4, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Upon petition to a family court judge, an ex parte
12 temporary restraining order may be granted without notice to
13 restrain either or both parties from contacting, threatening, or
14 physically abusing each other, notwithstanding that a complaint
15 for annulment, divorce, or separation has not been filed. The
16 order may be granted to any person who, at the time the order is
17 granted, is a family or household member as defined in section
18 586-1 or who filed a petition on behalf of a family or household
19 member[+], including a minor who was not the victim of the
20 domestic abuse but resided in the same household as the victim
21 of the domestic abuse. The order shall enjoin the respondent or



1 person to be restrained from performing any combination of the
2 following acts:

3 (1) Contacting, threatening, or physically abusing the
4 protected party;

5 (2) Contacting, threatening, or physically abusing any
6 person residing at the protected party's residence; or

7 (3) Entering or visiting the protected party's residence.

8 The ex parte temporary restraining order may also enjoin or
9 restrain both of the parties from taking, concealing, removing,
10 threatening, physically abusing, or otherwise disposing of any
11 animal identified to the court as belonging to a household,
12 until further order of the court."

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

19



INTRODUCED BY: _____



S.B. NO. 2396

Report Title:

Domestic Abuse; Order for Protection; Minors; Family Court;
Judiciary

Description:

Specifies that any minor who resides in the same household as the victim of domestic abuse may file a petition for an order of protection or temporary restraining order.

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