
A BILL FOR AN ACT

RELATING TO TEMPORARY RESTRAINING ORDERS.

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

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

13 The legislature further finds that the adversarial nature
14 of the legal system requires petitioners who have received TROs
15 to face their alleged abusers in court during these hearings.
16 The legislature also finds that, notwithstanding the safety
17 protocols that the judiciary takes to protect parties during



1 in-person TRO hearings, the physical presence of the parties
2 within the same room may allow for respondents to intimidate
3 petitioners through words or body language. Further, a 2020
4 study by the University of Arizona found that eighty-one per
5 cent of legal advocates indicated that many, most, or all of
6 their clients identified the behaviors of the alleged abuser or
7 abusers' associates in court as a source of re-traumatization.
8 The legislature also notes that survivors of domestic and
9 intimate partner violence often lack access to transportation,
10 child care, and paid time off, which can make mandatory
11 in-person hearings especially burdensome for petitioners.

12 Accordingly, the purpose of this Act is to:

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

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



1 "(b) On the earliest date that the business of the court
2 will permit, but no later than fifteen days from the date the
3 temporary restraining order is granted, the court, after giving
4 due notice to all parties, shall hold a hearing on the
5 application requiring cause to be shown why the order should not
6 continue. In the event that service has not been effected, the
7 court may set a new date for the hearing; provided that the date
8 shall not exceed ninety days from the date the temporary
9 restraining order was granted. All parties shall [~~be present~~
10 at] attend the hearing and may be represented by counsel. The
11 court may allow the petitioner to attend the hearing remotely
12 upon request; provided that the court shall allow the petitioner
13 to attend the hearing remotely if the petitioner's allegations
14 include at least one allegation of domestic abuse as defined in
15 section 586-1. The court shall consider factors such as the
16 petitioner's lack of transportation, child care, and paid time
17 off as well as the petitioner's fear of respondent's presence in
18 determining whether to allow the petitioner to attend the
19 hearing remotely.

20 The protective order may include all orders stated in the
21 temporary restraining order and may provide further relief, as



1 the court deems necessary to prevent domestic abuse or a
2 recurrence of abuse, including orders establishing temporary
3 visitation with regard to minor children of the parties and
4 orders to either or both parties to participate in domestic
5 violence intervention."

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

8 SECTION 4. This Act shall take effect on June 30, 3000.



Report Title:

Temporary Restraining Orders; Remote Attendance; Domestic Abuse

Description:

Authorizes the family courts to allow petitioners to attend TRO hearings remotely upon request. Requires the courts to consider certain factors. Requires the courts to allow petitioners who allege domestic abuse to attend TRO hearings remotely. Effective 6/30/3000. (HD1)

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