
A BILL FOR AN ACT

RELATING TO PETITIONS TO TEMPORARILY RESTRAIN AND ENJOIN
HARASSMENT OF AN EMPLOYEE.

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

1 SECTION 1. The legislature finds that state law currently
2 allows a person to obtain a temporary restraining order and
3 injunction against harassment. The legislature finds that there
4 is a need to extend these protections to allow employers to
5 protect employees against employment-related harassment.

6 In recent times, employees in the public and private
7 sectors across the country have experienced an alarming increase
8 in harassment, acts of violence, or threats to engage in acts of
9 violence.

10 In the public sector, numerous studies and reports confirm
11 this trend. For example, a 2021 study titled "On the Frontlines
12 of Today's Cities: Trauma, Challenges and Solutions" by the
13 National League of Cities found that eighty-one per cent of
14 local public officials surveyed said they had experienced
15 harassment, threats, or violence in recent years. In addition
16 to having their safety and well-being threatened, the report



1 found that harassment and violent behavior interrupted local
2 officials' ability to do their jobs and led to the loss of
3 institutional knowledge due to resignations.

4 In 2024, the National League of Cities conducted a survey
5 as an update to the earlier 2021 report, polling mayors, city
6 council members, and city managers about their personal
7 experiences of harassment as part of their work. Seventy-three
8 per cent of surveyed mayors, city council members, and city
9 managers reported personally experiencing harassment as part of
10 their work. Of those who experienced harassment, eighty-nine
11 per cent experienced harassment on social media and eighty-four
12 per cent experienced harassment during public city meetings.
13 Twenty-three per cent of respondents reported harassment of
14 their family or loved ones.

15 Other public servants, including state legislators and
16 judges, have experienced increasing threats or attacks. In a
17 series of national surveys completed in October 2023, the
18 Brennan Center for Justice, based on data sets representing more
19 than one thousand seven hundred officials from all fifty states,
20 found that more than forty per cent of state legislators
21 experienced threats or attacks within the past three years, and



1 eighty-nine per cent of state legislators experienced insults or
2 harassment, including stalking.

3 The legislature also finds that data gathered by the
4 federal and state courts illustrates that the trend of threats
5 and inappropriate communications against public officials is
6 increasing. United States Marshals Service data from 2025 shows
7 one hundred sixty-two federal judges were threatened in March
8 and early April 2025. At the state level, the number of threats
9 and other inappropriate communications to Hawaii judges has
10 increased tenfold since 2012.

11 Allowing an employer to seek an order of protection in
12 favor of employees to enjoin employment-related harassment has
13 been a feature of California law for some time.

14 In the 1990s, California enacted a law to allow an employer
15 to obtain a protective order on behalf of an employee. In the
16 decades since this law was enacted, employers in California,
17 including government entities, have obtained restraining orders
18 to prohibit a person from harassing their employees.

19 A few examples from California applying this law illustrate
20 the type of threats made against employees and how the law has
21 been utilized to restrain the threatening conduct.



1 First, the Administrative Office of the Courts of the State
2 of California successfully petitioned the court for a protective
3 order when a party in a family court matter, on the day he
4 learned a decision was unfavorable to him, made repeated threats
5 to kill the judicial official who had rendered the decision.
6 Admin. Office of Courts v. Valdez, No. A127094, 2010 WL 5264573,
7 at *1 (Cal. Ct. App. Dec. 27, 2010).

8 Second, the County of Los Angeles obtained restraining
9 orders on behalf of five employees, all women, to protect them
10 from a member of the public who stalked and threatened to commit
11 sexual violence against them. Cnty. of Los Angeles v. Herman,
12 No. B333177, 2024 WL 4997864, at *1 (Cal. Ct. App. Dec. 4,
13 2024).

14 In a third example, the Board of Trustees of California
15 State University obtained restraining orders on behalf of three
16 employees to protect them from a terminated employee who had
17 purchased firearms and ammunition and who had made threats to
18 kill them or other violent statements. Bd. of Trustees of
19 California State Univ. v. D.S., No. C100001, 2025 WL 2449509, at
20 *6 (Cal. Ct. App. Aug. 26, 2025).



1 The legislature further finds that a temporary restraining
2 order or injunction provides additional protection to the
3 harassed employee. For example, under section 134-7(f), Hawaii
4 Revised Statutes, a person under a restraining order is required
5 to relinquish possession and control of any firearm and
6 ammunition owned by that person to the police department. This
7 surrendering of a lawfully registered firearm and ammunition by
8 a restrained person is a policy that the legislature finds
9 should be expanded.

10 Accordingly, the purpose of this Act is to expand
11 protections against employment-related harassment by allowing
12 public employers to secure a temporary restraining order and
13 permanent injunction on behalf of a harassed employee.

14 SECTION 2. Section 604-10.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§604-10.5 Power to enjoin and temporarily restrain**
17 **harassment.** (a) For the purposes of this section:

18 "Course of conduct" means a pattern of conduct composed of
19 a series of acts over any period of time evidencing a continuity
20 of purpose.



1 "Credible threat of violence" means a knowing and wilful
2 statement or course of conduct that would place a reasonable
3 person in fear for their safety amounting to a threat of grave
4 or serious physical harm, bodily injury, or assault, and that
5 serves no legitimate purpose.

6 "Harassment" means:

7 (1) Physical harm, bodily injury, assault, or the threat
8 of imminent physical harm, bodily injury, or assault;
9 or

10 (2) An intentional or knowing course of conduct directed
11 at an individual that seriously alarms or disturbs
12 consistently or continually bothers the individual and
13 serves no legitimate purpose; provided that such
14 course of conduct would cause a reasonable person to
15 suffer emotional distress.

16 "Public employer" means:

17 (1) The State or any of its political subdivisions;

18 (2) A federal agency;

19 (3) The United States courts; or

20 (4) A public or quasi-public corporation, or any public
21 agency thereof or therein,



1 and any agent thereof.

2 "Public servant" means:

3 (1) The governor;

4 (2) The lieutenant governor;

5 (3) The administrative director appointed pursuant to
6 section 26-3;

7 (4) Any head of a department established under
8 section 26-4;

9 (5) Any member of the legislature;

10 (6) Any active, formerly active, or retired:

11 (A) Justice of the Hawaii supreme court;

12 (B) Judge of the Hawaii intermediate appellate court;

13 (C) Judge of a Hawaii circuit court or circuit family
14 court;

15 (D) Judge of a Hawaii district court or district
16 family court; or

17 (E) Per diem judge of a Hawaii district court or
18 district family court;

19 (7) Any active, formerly active, or retired:

20 (A) Justice of the United States Supreme Court;

21 (B) Judge of the United States Court of Appeals;



- 1 (C) Judge or magistrate judge of the United States
2 District Court; or
- 3 (D) Judge of the United States Bankruptcy Court,
4 who resides in the State, formerly resided in the
5 State while serving as a federal judge, or owns real
6 property in the State;
- 7 (8) The administrative director of the courts;
- 8 (9) The deputy administrative director of the courts;
- 9 (10) Any employee or volunteer of the office of elections;
10 or
- 11 (11) Any person designated for good cause by the governor,
12 president of the senate, speaker of the house of
13 representatives, administrative director of the
14 courts, chief judge of the United States District
15 Court for the District of Hawaii, or chairperson of
16 the office of Hawaiian affairs in the designator's
17 respective body.
- 18 "Public servant" does not include other public employees covered
19 under chapter 76 or 89.
- 20 "Unlawful violence" means grave or serious physical harm,
21 bodily injury, or assault, or any violation of chapter 707.



1 (b) The district courts shall have the power to enjoin,
2 prohibit, or temporarily restrain harassment.

3 (c) Any person who has been subjected to harassment, or
4 any public employer of a public servant who has been subjected
5 to harassment related to their employment as a public servant,
6 may petition the district court for a temporary restraining
7 order and an injunction from further harassment in the district
8 in which:

9 (1) The petitioner resides or is temporarily located;

10 (2) The respondent resides; or

11 (3) The harassment occurred.

12 (d) A petition for relief from harassment shall be in
13 writing and shall allege that a past act or acts of harassment
14 may have occurred or that threats of harassment make it probable
15 that acts of harassment may be imminent; and shall be
16 accompanied by an affidavit made under oath or statement made
17 under penalty of perjury stating the specific facts and
18 circumstances for which relief is sought.

19 (e) Upon petition to a district court under this section,
20 the court may allow a petition, complaint, motion, or other
21 document to be filed identifying the petitioner as "jane doe" or



1 "john doe"; provided that the court finds that the "jane doe" or
2 "john doe" filing is reasonably necessary to protect the privacy
3 of the petitioner and will not unduly prejudice the prosecution
4 or the defense of the action.

5 In considering a petition requesting a "jane doe" or "john
6 doe" filing, the court shall weigh the petitioner's interest in
7 privacy against the public interest in disclosure.

8 The court, only after finding clear and convincing evidence
9 that would make public inspection inconsistent with the purpose
10 of this section, may seal from the public all documents or
11 portions of documents, including all subsequently filed
12 documents, that would identify the petitioner or contain
13 sufficient information from which the petitioner's identity
14 could be discerned or inferred. Access to identifying
15 information may be permitted to law enforcement or other
16 authorized authority, in the course of conducting official
17 business, to effectuate service, enforcement, or prosecution, or
18 as ordered by the courts.

19 (f) Upon petition to a district court under this section,
20 the court may temporarily restrain the person or persons named
21 in the petition from harassing the petitioner or the public



1 servant on whose behalf the petition is filed upon a
2 determination that there is probable cause to believe that a
3 past act or acts of harassment have occurred or that a threat or
4 threats of harassment may be imminent. The court may issue an
5 ex parte temporary restraining order either in writing or
6 orally; provided that oral orders shall be reduced to writing by
7 the close of the next court day following oral issuance.

8 (g) A temporary restraining order that is granted under
9 this section shall remain in effect at the discretion of the
10 court for a period not to exceed ninety days from the date the
11 order is granted, including, in the case where a temporary
12 restraining order restrains any party from harassing a minor,
13 for a period extending to a date after the minor has reached
14 eighteen years of age. A hearing on the petition to enjoin
15 harassment, credible threat of violence, or unlawful violence
16 shall be held within fifteen days after the temporary
17 restraining order is granted. If service of the temporary
18 restraining order has not been effected before the date of the
19 hearing on the petition to enjoin, the court may set a new date
20 for the hearing; provided that the new date shall not exceed



1 ninety days from the date the temporary restraining order was
2 granted.

3 The parties named in the petition may file or give oral
4 responses explaining, excusing, justifying, or denying the
5 alleged act or acts of harassment. The court shall receive all
6 evidence that is relevant at the hearing and may make
7 independent inquiry.

8 If the court finds by clear and convincing evidence that
9 harassment as defined in paragraph (1) of that definition
10 exists, it may enjoin for no more than three years further
11 harassment of the petitioner[7] or the public servant on whose
12 behalf the petition is filed, or that harassment as defined in
13 paragraph (2) of that definition exists, it shall enjoin for no
14 more than three years further harassment of the petitioner[7] or
15 the public servant on whose behalf the petition is filed,
16 including, in the case where any party is enjoined from
17 harassing a minor, for a period extending to a date after the
18 minor has reached eighteen years of age; provided that this
19 subsection shall not prohibit the court from issuing other
20 injunctions against the named parties even if the time to which
21 the injunction applies exceeds a total of three years.



1 If the court finds by clear and convincing evidence that a
2 credible threat of violence or unlawful violence exists, the
3 court may enjoin for no more than three years further credible
4 threat of violence or unlawful violence of the petitioner.

5 Clear and convincing evidence shall include all of the
6 following:

7 (1) A report completed with a law enforcement agency with
8 proper jurisdiction describing, at the minimum:

9 (A) That a public servant has suffered a credible
10 threat of violence or unlawful violence by the
11 respondent; and

12 (B) That the course of conduct at issue served no
13 legitimate purpose; and

14 (2) Any reasonable proof to the satisfaction of the court.

15 Any order issued under this section shall be served upon
16 the respondent. For the purposes of this section, "served"
17 means actual personal service, service by certified mail, or
18 proof that the respondent was present at the hearing at which
19 the court orally issued the injunction.

20 Where service of a restraining order or injunction has been
21 made or where the respondent is deemed to have received notice



1 of a restraining order or injunction order, any knowing or
2 intentional violation of the restraining order or injunction
3 order shall subject the respondent to the provisions in
4 subsection (i).

5 Any order issued shall be transmitted to the chief of
6 police of the county in which the order is issued by way of
7 regular mail, facsimile transmission, or other similar means of
8 transmission.

9 (h) The court may grant the prevailing party in an action
10 brought under this section costs and fees, including attorney's
11 fees.

12 (i) A knowing or intentional violation of a restraining
13 order or injunction issued pursuant to this section is a
14 misdemeanor. The court shall sentence a violator to appropriate
15 counseling and shall sentence a person convicted under this
16 section as follows:

17 (1) For a violation of an injunction or restraining order
18 that occurs after a conviction for a violation of the
19 same injunction or restraining order, the person shall
20 be sentenced to a mandatory minimum jail sentence of
21 not less than forty-eight hours; and



1 (2) For any subsequent violation that occurs after a
2 second conviction for violation of the same injunction
3 or restraining order, the person shall be sentenced to
4 a mandatory minimum jail sentence of not less than
5 thirty days.

6 The court may suspend any jail sentence, except for the
7 mandatory sentences under paragraphs (1) and (2), upon
8 appropriate conditions, such as that the defendant remain
9 alcohol- and drug-free, conviction-free, or complete
10 court-ordered assessments or counseling. The court may suspend
11 the mandatory sentences under paragraphs (1) and (2) where the
12 violation of the injunction or restraining order does not
13 involve violence or the threat of violence. Nothing in this
14 section shall be construed as limiting the discretion of the
15 judge to impose additional sanctions authorized in sentencing
16 for a misdemeanor offense.

17 (j) Nothing in this section shall be construed to prohibit
18 constitutionally protected activity.

19 (k) A petition under this section filed by a public
20 employer of a public servant shall identify the "Petitioner" as
21 the respective branch of government or department on behalf of



1 the named public servant; provided that the state judiciary
2 shall be identified as the "Administrative Director of the
3 Courts".

4 (l) A public employer filing a petition under this section
5 shall formally request representation by the department of the
6 attorney general. The attorney general may, in the attorney
7 general's discretion and notwithstanding any other law to the
8 contrary regarding legal representation of state employees,
9 decline any request for representation made pursuant to this
10 subsection or refer the request to another government legal
11 representative for any reason the attorney general deems
12 appropriate.

13 (m) The authorization for a public employer to petition
14 for relief under this section on behalf of a public servant is
15 discretionary. Nothing in this section shall be construed to:

16 (1) Create a duty for a public employer to petition for
17 relief on behalf of a public servant, even if the
18 public employer has notice or reasonably has notice of
19 an alleged employment-related credible threat of
20 violence or unlawful violence; or



1 (2) Authorize a private right of action against a public
2 employer that declines to petition for relief under
3 this section.

4 (n) The public servant shall immediately notify law
5 enforcement regarding any conduct or situation that poses an
6 imminent danger or threat to the health or safety of any
7 individual, the workplace, or the public."

8 SECTION 3. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$ or so
10 much thereof as may be necessary for fiscal year 2026-2027 for
11 the department of the attorney general to carry out the purposes
12 of this Act.

13 The sum appropriated shall be expended by the department of
14 the attorney general for the purposes of this Act.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Judiciary Package; Public Employers; Public Servants;
Harassment; Credible Threat of Violence; Unlawful Violence;
Temporary Restraining Orders; Injunctions

Description:

Authorizes public employers to petition for temporary
restraining orders and injunctions against employment-related
harassment, credible threat of violence, or unlawful violence of
certain public employees. Effective 7/1/3000. (HD1)

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