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# 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 an  
3 injunction against harassment. The legislature further finds  
4 that there is a need to extend these protections to allow  
5 employers to protect employees against employment-related  
6 harassment. In recent times, employees in the public and  
7 private sectors across the country have experienced an alarming  
8 increase in harassment, acts of violence, or threats to engage  
9 in acts of violence in the course and scope of their work.

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



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

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

17 The legislature further finds that other public servants,  
18 including state legislators and judges, have experienced  
19 increasing threats or attacks. In a series of national surveys  
20 completed in October 2023, the Brennan Center for Justice, based  
21 on data sets representing more than one thousand seven hundred



1 officials from all fifty states, found that more than forty per  
2 cent of state legislators experienced threats or attacks within  
3 the past three years, and eighty-nine per cent of state  
4 legislators experienced insults or harassment, including  
5 stalking.

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

14 The legislature notes that allowing an employer to seek an  
15 order of protection on behalf of employees to enjoin employment-  
16 related harassment has been a feature of California law for some  
17 time. In the 1990s, California enacted a law to allow an  
18 employer to obtain a protective order on behalf of an employee.  
19 The law is presently codified in section 527.8 of the California  
20 Code of Civil Procedure. In the decades since this law was  
21 enacted, employers in California, including government entities,



1 have obtained restraining orders to prohibit a person from  
2 harassing their employees.

3 Under existing state law, there is no general mechanism by  
4 which state entities may seek a temporary restraining order or  
5 an injunction against harassment on behalf of a harassed public  
6 employee. Under article V, section 6, of the Hawaii State  
7 Constitution, the attorney general is the chief legal officer of  
8 the State. Consistent with that constitutional role, the  
9 department of the attorney general's primary function in  
10 litigation is to represent the State and its agencies in civil  
11 actions. However, requiring the department to represent public  
12 employees in their personal capacity as plaintiffs in civil  
13 actions, regardless of the merits of those actions, could create  
14 conflicts of interest and unintended consequences. Accordingly,  
15 the legislature finds that authorizing the retention of private  
16 legal counsel on behalf of a harassed public employee is the  
17 most appropriate mechanism for providing legal representation in  
18 these circumstances.

19 Accordingly, the purpose of this Act is to establish a two-  
20 year pilot project to expand protections against employment-  
21 related harassment by allowing public employers to secure a



1 temporary restraining order and an injunction on behalf of a  
2 harassed employee under specified circumstances.

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

5 **"§604-10.5 Power to enjoin and temporarily restrain**  
6 **harassment.** (a) For the purposes of this section:

7 "Course of conduct" means a pattern of conduct composed of  
8 a series of acts over any period of time evidencing a continuity  
9 of purpose.

10 "Harassment" means:

11 (1) Physical harm, bodily injury, assault, or the threat  
12 of imminent physical harm, bodily injury, or assault;  
13 or

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

20 "Public employer" means:

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



- 1        (2) A federal agency;  
2        (3) The United States courts; or  
3        (4) A public or quasi-public corporation, or any public  
4                agency thereof or therein,  
5 and any agent thereof.

6        "Public servant" means:

- 7        (1) Any officer or employee of the executive branch,  
8                including the governor; lieutenant governor; the  
9                administrative director appointed pursuant to section  
10                26-3; and any volunteer of the office of elections;  
11        (2) Any member of the legislature and any officer or  
12                employee of the legislative branch;  
13        (3) Any official or employee of the judicial branch,  
14                including the administrative director of the courts,  
15                the deputy administrative director of the courts, and  
16                any active, formerly active, or retired:  
17                (A) Justice of the Hawaii supreme court;  
18                (B) Judge of the Hawaii intermediate appellate court;  
19                (C) Judge of a Hawaii circuit court or circuit family  
20                court;



- 1            (D) Judge of a Hawaii district court or district  
2            family court; or
- 3            (E) Per diem judge of a Hawaii district court or  
4            district family court;
- 5            (4) Any officer or employee of any political subdivision  
6            of the State; or
- 7            (5) Any active, formerly active, or retired:
- 8            (A) Justice of the United States Supreme Court;
- 9            (B) Judge of the United States Court of Appeals;
- 10           (C) Judge or magistrate judge of the United States  
11           District Court; or
- 12           (D) Judge of the United States Bankruptcy Court,  
13           who resides in the State, formerly resided in the  
14           State while serving as a federal judge, or owns real  
15           property in the State.

16           "Public servant of the State" means a public servant as  
17           defined in paragraphs (1), (2), and (3) of the definition of  
18           "public servant". "Public servant of the State" does not  
19           include any other individual, notwithstanding section 710-1000  
20           or any other law, unless expressly provided in this definition.



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 the 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 shall be held within fifteen days after the temporary  
16 restraining order is granted. If service of the temporary  
17 restraining order has not been effected before the date of the  
18 hearing on the petition to enjoin, the court may set a new date  
19 for the hearing; provided that the new date shall not exceed  
20 ninety days from the date the temporary restraining order was  
21 granted.



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

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

20           Any order issued under this section shall be served upon  
21 the respondent. For the purposes of this section, "served"



1 means actual personal service, service by certified mail, or  
2 proof that the respondent was present at the hearing at which  
3 the court orally issued the injunction.

4 Where service of a restraining order or injunction has been  
5 made or where the respondent is deemed to have received notice  
6 of a restraining order or injunction order, any knowing or  
7 intentional violation of the restraining order or injunction  
8 order shall subject the respondent to the provisions in  
9 subsection (i).

10 Any order issued shall be transmitted to the chief of  
11 police of the county in which the order is issued by way of  
12 regular mail, facsimile transmission, or other similar means of  
13 transmission.

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

17 (i) A knowing or intentional violation of a restraining  
18 order or injunction issued pursuant to this section [~~is~~] shall  
19 be a misdemeanor. The court shall sentence a violator to  
20 appropriate counseling and shall sentence a person convicted  
21 under this section as follows:



1 (1) For a violation of an injunction or restraining order  
2 that occurs after a conviction for a violation of the  
3 same injunction or restraining order, the person shall  
4 be sentenced to a mandatory minimum jail sentence of  
5 [~~not~~] no less than forty-eight hours; and

6 (2) For any subsequent violation that occurs after a  
7 second conviction for violation of the same injunction  
8 or restraining order, the person shall be sentenced to  
9 a mandatory minimum jail sentence of [~~not~~] no less  
10 than thirty days.

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



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

3 (k) A petition filed by the public employer of a public  
4 servant under this section shall identify the petitioner as the  
5 respective branch of government, department, or agency; provided  
6 that the state judiciary shall be identified as the  
7 administrative director of the courts.

8 (l) Notwithstanding any other law to the contrary,  
9 including chapter 91, subject to the availability of funds  
10 appropriated for this purpose, the department of the attorney  
11 general shall establish a system by which a public employer of a  
12 public servant of the State may retain a private attorney to  
13 provide representation to the public employer to pursue an  
14 action under this section on behalf of a public servant of the  
15 State; provided that under no circumstance shall a public  
16 employer of a public servant of the State be permitted to retain  
17 a private attorney under this subsection if the person to be  
18 restrained is in the same branch of government. Under no  
19 circumstances shall the attorney general, the first deputy  
20 attorney general, the special assistant to the attorney general,



1 or any deputy attorney general provide representation to a  
2 public employer or a public servant under this section.

3 (m) Staff attorneys for the judiciary may represent a  
4 public servant of the State employed by the judiciary.

5 Notwithstanding subsection (l), the judiciary may utilize its  
6 own funds to retain a private attorney to represent a public  
7 servant of the State employed by the judiciary.

8 (n) The authorization for a public employer to petition  
9 for relief under this section on behalf of a public servant is  
10 discretionary. Nothing in this section shall be construed to:

11 (1) Create a duty for a public employer to petition for  
12 relief on behalf of a public servant;

13 (2) Authorize a private right of action, whether in law or  
14 in equity, against the State or a public employer,  
15 including the administrative director of the courts,  
16 or any public official, whether in an official or  
17 individual capacity, relating to or arising out of the  
18 filing of a petition for relief or a decision to  
19 decline to petition for relief under this section, and  
20 no court shall have subject matter jurisdiction to  
21 consider any claims relating to the same; or



1       (3) Authorize a private right of action, whether in law or  
2       in equity, against the State, the department of the  
3       attorney general, or any officer or employee of the  
4       department of the attorney general, whether in an  
5       official or individual capacity, relating to or  
6       arising out of subsection (1), and no court shall have  
7       subject matter jurisdiction to consider any claims  
8       relating to the same."

9       SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$                    or so  
11 much thereof as may be necessary for fiscal year 2026-2027 to  
12 establish a system for retaining private attorneys to provide  
13 representation for public employees of the State pursuant to  
14 section 604-10.5(1), Hawaii Revised Statutes.

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

17       SECTION 4. The appropriation made by this Act shall not  
18 lapse at the end of the fiscal biennium for which the  
19 appropriation is made; provided that all moneys from the  
20 appropriation unencumbered as of June 30, 2028, shall lapse as  
21 of that date.



1           SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 6. This Act shall take effect on July 1, 3000;  
4 provided that this Act shall be repealed on June 30, 2028, and  
5 section 604-10.5, Hawaii Revised Statutes, shall be reenacted in  
6 the form in which it read on the day prior to the effective date  
7 of this Act.



**Report Title:**

Judiciary Package; Public Employers; Public Servants;  
Harassment; Temporary Restraining Orders; Injunctions

**Description:**

Establishes a two-year pilot project to authorize public employers to petition for temporary restraining orders and injunctions against employment-related harassment of certain public employees. Sunsets 6/30/2028. Effective 7/1/3000.  
(HD2)

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