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# A BILL FOR AN ACT

RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS.

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

1           SECTION 1. The legislature finds that rights guaranteed  
2 under the Constitution of the United States, Constitution of the  
3 State of Hawaii, and various federal and state laws are  
4 meaningful only if they are effectively enforceable. The  
5 legislature further finds that threats, intimidation, and  
6 coercion, whether those actions are committed by public  
7 officials or private persons, undermine the free exercise and  
8 enjoyment of these rights.

9           Accordingly, the purpose of this Act is to deter  
10 interference with civil rights, provide effective civil remedies  
11 for such interference, and promote accountability by authorizing  
12 civil actions against any person who interferes or attempts to  
13 interfere with the exercise or enjoyment of constitutional and  
14 statutory rights.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 36 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS

6 § -1 **Short title.** This chapter shall be known and may  
7 be cited as the Hawaii Civil Rights Protection Act.

8 § -2 **Definitions.** As used in this chapter, unless  
9 context clearly requires otherwise:

10 "Coercion" means the use of threats or intimidation or the  
11 misuse of authority to compel or induce a person to do or  
12 refrain from doing an act the person has a legal right to do or  
13 refrain from doing.

14 "Intimidation" means conduct or communication that would  
15 place a reasonable person in fear of physical harm or unlawful  
16 restraint and is undertaken for the purpose of causing the  
17 person to do or refrain from doing an act that the person has a  
18 right to do or refrain from doing under the United States  
19 Constitution or laws of the United States, or under the Hawaii  
20 State Constitution or laws of the State.



1 "Person" means an individual, partnership, association,  
2 corporation, limited liability company, or other private legal  
3 entity. "Person" does not include the State, any county, or any  
4 department, agency, board, commission, officer, or employee of  
5 the State or any county acting within the scope of official  
6 duties, except to the extent that immunity is expressly waived  
7 by law.

8 "Threat" means a communicated intent to inflict physical  
9 harm, unlawful restraint, or unlawful damage to property that  
10 would cause a reasonable person to fear that physical harm,  
11 unlawful restraint, or unlawful damage to property will occur.

12 § -3 **Civil interference with constitutional or statutory**  
13 **rights.** (a) Any person who intentionally or knowingly  
14 interferes, or attempts to interfere, with the exercise or  
15 enjoyment of any right secured by the United States Constitution  
16 or laws of the United States, or by the Hawaii State  
17 Constitution or laws of the State, through threats,  
18 intimidation, or coercion shall be liable in a civil action  
19 under this chapter, regardless of whether the person is acting  
20 under color of law.



1 (b) A threat, intimidation, or coercion described in  
2 subsection (a) may include conduct inherent in the  
3 constitutional or statutory violation itself.

4 § -4 **Standing; enforcement.** (a) A civil action under  
5 this chapter may be brought by:

- 6 (1) Any aggrieved person;
- 7 (2) The attorney general; or
- 8 (3) The corporation counsel or county attorney of any  
9 county.

10 (b) An action brought by the attorney general, corporation  
11 counsel, or county attorney shall be brought in the name of the  
12 State of Hawaii.

13 § -5 **Venue.** An action under this chapter may be brought  
14 in the circuit court in the circuit where:

- 15 (1) The violation occurred; or
- 16 (2) The defendant resides or has a principal place of  
17 business.

18 § -6 **Remedies.** (a) A plaintiff who prevails in a civil  
19 action under this chapter may obtain one or more of the  
20 following remedies:

- 21 (1) Actual damages;



- 1 (2) Injunctive relief;
- 2 (3) Declaratory relief; and
- 3 (4) Reasonable attorneys' fees and costs.

4 (b) The remedies provided by this chapter shall be  
5 cumulative and independent of any other remedy available under  
6 law.

7 § -7 **Statute of limitations.** An action under this  
8 chapter shall be commenced within two years after the date that  
9 the cause of action accrued; provided that this section shall  
10 not preclude a court from granting prospective injunctive or  
11 declaratory relief to prevent threatened future violations when  
12 timely sought.

13 § -8 **Pleading.** A complaint brought under this chapter  
14 shall state with particularity the facts:

- 15 (1) Establishing the specific protected right at issue;
- 16 (2) Establishing the threats, intimidation, or coercion  
17 used or attempted; and
- 18 (3) Supporting the defendant's required state of mind  
19 under this chapter.

20 § -9 **Speech protections.** (a) Speech alone shall not  
21 constitute a violation of this chapter unless:



1 (1) The speech constitutes a true threat of violence  
2 against a specific person or group of persons; and

3 (2) The threatened person or group reasonably fears  
4 imminent harm.

5 (b) No order issued under this chapter shall restrict the  
6 content of any person's speech. Any restriction on the time,  
7 place, or manner of speech shall be narrowly tailored and no  
8 broader than reasonably necessary to protect the exercise or  
9 enjoyment of constitutional or statutory rights.

10 § -10 **Construction.** This chapter shall be liberally  
11 construed to protect constitutional and statutory rights, deter  
12 interference with those rights, promote accountability, and  
13 provide effective remedies for a person who was subjected to the  
14 interference or attempted interference.

15 § -11 **Severability.** If any provision of this chapter,  
16 or the application thereof to any person or circumstance, is  
17 held invalid, the invalidity does not affect other provisions or  
18 applications of the chapter that can be given effect without the  
19 invalid provision or application, and to this end the provisions  
20 of this chapter are severable."



1 SECTION 3. 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 4. This Act shall take effect on July 1, 3000.



**Report Title:**

AG; Counties; Hawaii Civil Rights Protection Act; Constitutional and Statutory Rights; Civil Remedies; Relief

**Description:**

Establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. Authorizes private rights of action. Authorizes actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney. Authorizes injunctive relief, declaratory relief, and certain monetary relief. Includes protections for constitutionally protected speech. Effective 7/1/3000. (HD1)

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

