
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 numerous studies and
11 reports confirm this trend in the public sector. 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 the State's
13 judges has increased twentyfold since 2012.

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



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

3 Under existing state law, there is no mechanism for state
4 entities to secure a temporary restraining order and permanent
5 injunction on behalf of a harassed public employee. The
6 legislature finds that a system for retaining private attorneys
7 on behalf of the harassed public employee is the only proper
8 mechanism for providing legal representation with respect to
9 state employers. The attorney general is the chief legal
10 officer for the State and by representing clients in a personal
11 capacity as plaintiffs in civil suits, irrespective of the
12 merits of those suits, the attorney general could create
13 potential conflicts of interest and unforeseen consequences.

14 Accordingly, the purpose of this Act is to establish a two-
15 year pilot project to expand protections against
16 employment-related harassment by allowing public employers to
17 secure a temporary restraining order and an injunction on behalf
18 of a harassed employee under specified circumstances.

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



1 "§604-10.5 Power to enjoin and temporarily restrain

2 harassment. (a) For the purposes of this section:

3 "Course of conduct" means a pattern of conduct composed of
4 a series of acts over any period of time evidencing a continuity
5 of 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~~ the
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) Any officer or employee of the executive branch,
4 including the governor, the lieutenant governor, the
5 administrative director appointed pursuant to
6 section 26-3, and any volunteer of the office of
7 elections;

8 (2) Any member of the legislature and any officer or
9 employee of the legislative branch;

10 (3) Any official or employee of the judicial branch,
11 including the administrative director of the courts,
12 the deputy administrative director of the courts, and
13 any active, formerly active, or retired:

14 (A) Justice of the Hawaii supreme court;

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

16 (C) Judge of a Hawaii circuit court or circuit family
17 court;

18 (D) Judge of a Hawaii district court or district
19 family court; or

20 (E) Per diem judge of a Hawaii district court or
21 district family court;



1 (4) Any officer or employee of any political subdivision
2 of the State; or

3 (5) Any active, formerly active, or retired:

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

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

6 (C) Judge or magistrate judge of the United States
7 District Court; or

8 (D) Judge of the United States Bankruptcy Court, who
9 resides in the State,

10 formerly resided in the State while serving as a
11 federal judge, or owns real property in the State.

12 "Public servant of the State" means a public servant as
13 defined in paragraphs (1), (2), and (3) of the definition of
14 "public servant". "Public servant of the State" does not
15 include other individuals not expressly provided for in this
16 definition.

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

19 (c) Any person who has been subjected to harassment, or
20 the public employer of a public servant who has been subjected
21 to harassment related to their employment as a public servant,



1 may petition the district court for a temporary restraining
2 order and an injunction from further harassment in the district
3 in which:

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

5 (2) The respondent resides; or

6 (3) The harassment occurred.

7 (d) A petition for relief from harassment shall ~~[be]~~ :

8 (1) Be in writing ~~[and shall allege]~~;

9 (2) Allege that a past act or acts of harassment may have
10 occurred or that threats of harassment make it
11 probable that acts of harassment may be imminent; and
12 ~~[shall be]~~

13 (3) Be accompanied by an affidavit made under oath or a
14 statement made under penalty of perjury stating the
15 specific facts and circumstances for which relief is
16 sought.

17 (e) Upon petition to a district court under this section,
18 the court may allow a petition, complaint, motion, or other
19 document to be filed identifying the petitioner as "jane doe" or
20 "john doe"; provided that the court finds that the "jane doe" or
21 "john doe" filing is reasonably necessary to protect the privacy



1 of the petitioner and will not unduly prejudice the prosecution
2 or the defense of the action.

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

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

17 (f) Upon petition to a district court under this section,
18 the court may temporarily restrain the person or persons named
19 in the petition from harassing the petitioner or the public
20 servant on whose behalf the petition is filed upon a
21 determination that there is probable cause to believe that a



1 past act or acts of harassment have occurred or that a threat or
2 threats of harassment may be imminent. The court may issue an
3 ex parte temporary restraining order either in writing or
4 orally; provided that oral orders shall be reduced to writing by
5 the close of the next court day following oral issuance.

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

20 The parties named in the petition may file or give oral
21 responses explaining, excusing, justifying, or denying the



1 alleged act or acts of harassment. The court shall receive all
2 evidence that is relevant at the hearing and may make
3 independent inquiry.

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

18 Any order issued under this section shall be served upon
19 the respondent. For the purposes of this section, "served"
20 means actual personal service, service by certified mail, or



1 proof that the respondent was present at the hearing at which
2 the court orally issued the injunction.

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

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

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

16 (i) A knowing or intentional violation of a restraining
17 order or injunction issued pursuant to this section [~~is~~] shall
18 be a misdemeanor. The court shall sentence a violator to
19 appropriate counseling and shall sentence a person convicted
20 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, subject
9 to the availability of funds appropriated for this purpose, the
10 department of the attorney general shall establish a system by
11 which a public employer of a public servant of the State may
12 retain a private attorney to provide representation to the
13 public employer to pursue an action under this section on behalf
14 of a public servant of the State; provided that under no
15 circumstance shall a public employer of a public servant of the
16 State be permitted to retain a private attorney under this
17 subsection if the person to be restrained is in the same branch
18 of government. Under no circumstances shall the attorney
19 general, the first deputy attorney general, the special
20 assistant to the attorney general, or any deputy attorney



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

3 (m) Notwithstanding subsection (l), staff attorneys for
4 the judiciary may represent a public servant of the State
5 employed by the judiciary. The judiciary may utilize its own
6 funds to retain a private attorney to represent a public servant
7 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
10 shall be discretionary. Nothing in this section shall be
11 construed to:

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

14 (2) Authorize a private right of action, whether in law or
15 in equity, against the State or a public employer,
16 including the administrative director of the courts or
17 any public official, whether in an official or
18 individual capacity, relating to or arising out of the
19 filing of a petition for relief or a decision to
20 decline to petition for relief under this section, and



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

11 SECTION 3. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2026-2027 to
14 establish a system for retaining private attorneys to provide
15 representation for public employees of the State under the pilot
16 project established pursuant to this Act.

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

19 SECTION 4. The appropriation made by this Act shall not
20 lapse at the end of the fiscal biennium for which the
21 appropriation is made; provided that all moneys from the



1 appropriation unencumbered as of June 30, 2028, shall lapse as
2 of that date.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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



Report Title:

Judiciary Package; Public Employers; Public Servants;
Harassment; Temporary Restraining Orders; Injunctions; Pilot
Project; Appropriation

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. Appropriates funds. Sunsets 6/30/2028.
Effective 7/1/3000. (HD2)

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

