
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. Pursuant to section 26-7, Hawaii Revised
10 Statutes, the attorney general is the chief legal officer for
11 the State. The law reflects that function: the department of
12 the attorney general's primary role in litigation is to
13 represent the State in civil actions. By representing clients
14 in a personal capacity as plaintiffs in civil suits,
15 irrespective of the merits of those suits, the department could
16 create potential conflicts of interest and unforeseen
17 consequences.

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



1 secure a temporary restraining order and an injunction on behalf
2 of a 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]~~ the
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
- 10 section 26-3, and any volunteer of the office of
- 11 elections;
- 12 (2) Any member of the legislature and any officer or
- 13 employee of the legislative branch;
- 14 (3) Any official or employee of the judicial branch,
- 15 including the administrative director of the courts,
- 16 the deputy administrative director of the courts, and
- 17 any active, formerly active, or retired:
- 18 (A) Justice of the Hawaii supreme court;
- 19 (B) Judge of the Hawaii intermediate appellate court;
- 20 (C) Judge of a Hawaii circuit court or circuit family
- 21 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 State while
14 serving as a federal judge, or owns real property in the State.
- 15 "Public servant of the State" means a public servant as
16 defined in paragraphs (1), (2), and (3) of the definition of
17 "public servant". "Public servant of the State" does not
18 include other individuals not expressly provided for in this
19 section, including in the definition of "public servant" under
20 section 710-1000 or in any other law.



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 a
4 public employer of a public servant who has been subjected to
5 harassment related to their employment as a public servant, may
6 petition the district court for a temporary restraining order
7 and an injunction from further harassment in the district in
8 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
14 harassment may have occurred or that threats of harassment make
15 it probable that acts of harassment may be imminent[+], and
16 shall be accompanied by an affidavit made under oath or a
17 statement made under penalty of perjury stating the specific
18 facts and 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~~ not 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
12 ~~no~~ not more than three years further harassment of the
13 petitioner~~[7]~~ or the public servant on whose behalf the petition
14 is filed, including, in the case where any party is enjoined
15 from harassing a minor, for a period extending to a date after
16 the 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 a
19 misdemeanor. The court shall sentence a violator to appropriate
20 counseling and shall sentence a person convicted under this
21 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 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 less than
10 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 a public employer of a public
4 servant under this section shall identify the "petitioner" as
5 the respective branch of government, department, or agency;
6 provided 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 of 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 courts or any
16 public official, whether in an official or individual
17 capacity, relating to or arising out of the filing of
18 a petition for relief or a decision to decline to
19 petition for relief under this section, and no court
20 shall have subject matter jurisdiction to consider any
21 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 to 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 under the pilot
14 project established pursuant to this Act.

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 January 1, 2077;
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.



S.B. NO. 2567
S.D. 2

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. Effective 1/1/2077.
Sunsets 6/30/2028. (SD2)

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

