



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 2091, RELATING TO PETITIONS TO TEMPORARILY RESTRAIN AND ENJOIN HARASSMENT OF AN EMPLOYEE.

BEFORE THE:

HOUSE COMMITTEE ON LABOR

DATE: Thursday, February 12, 2026 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Diana Sumarna, Deputy Attorney General, or
Fiamma M. Rago, Deputy Attorney General

Chair Sayama and Members of the Committee:

The Department of the Attorney General (Department) submits the following comments and concerns about this bill.

This bill authorizes public employers to petition for temporary restraining orders and injunctions on behalf of certain public servants, limited to the bill's definition, for employment-related harassment.

First, the bill is silent on the legal representation required for the public employers of the public servants petitioners in the Temporary Restraining Order (TRO) and injunction proceedings. Obtaining the TRO includes the initial proceedings and a three-year injunction proceeding, inclusive of any appeal that may result from said proceedings. The Legislature would need to clarify whether it expects the Department to provide representation. Under existing law, the Department is permitted to defend a state employee against a civil action or proceeding brought against the employee "for damage to property or for personal injury" under section 662-16(a), Hawaii Revised Statutes (HRS). The Department is not authorized to file affirmative claims on behalf of a State employee. If expected to represent state employees, we believe that this bill, as written, could overwhelm the Department. To maintain the integrity of legal representation expected from the Department, the bill should include an express section that requires formal requests for representation by the Department, while providing the

Attorney General with the discretionary power to decline any request of representation in the TRO and related proceedings and to defer such requests to another government legal representative, for any reason the Attorney General deems appropriate and notwithstanding other statutory limitations regarding legal representation of State employees.

Moreover, the bill must clarify whether the petitioners, i.e., the employer, are responsible for the entire fees, including private attorneys' fees if engaged, and costs incurred in the proceedings to the existing section 604-10.5(h), HRS. If the Legislature intends to have the State petitioners pay fees and costs on behalf of public servants, the bill must clarify that the entirety of the proceedings initiated pursuant to the bill would be provided at no cost to the public servant. Moneys would then need to be appropriated by the Legislature to the State employers or the Department if it is providing this service.

Nonetheless, it will take significant time and resources to implement the processes identified in this bill. To the extent this bill moves forward, we recommend amending the bill to provide that the Act shall take effect on July 1, 2027, or later, and to provide a blank appropriation to the Department to implement this bill as we continue to consider the impacts of this bill should it pass.

Second, to meaningfully limit public employers' liability, this bill must include clear definitions and prerequisites.

The bill's definition of "public servant" excludes the public servants already defined in section 710-1000, HRS, which includes "any officer or employee of any branch of government, whether elected, appointed, or otherwise employed, and any person participating as advisor, consultant, or otherwise, in performing a governmental function, but the term does not include jurors or witnesses." This bill, however, lacks justifications in limiting the TRO and injunction processes solely to the individuals listed in the amended definition of "public servant" in section 604-10.5, HRS, on page 6, line 21, to page 8, line 15; and not other public employees or private employees.

If the bill paves the way to include all public employees, then the collective bargaining agreements could be modified in future collective bargaining to require all public employers to file petitions for bargaining unit employees. Nevertheless, to the

extent this bill moves forward, we recommend amending the definition of "public servant" in section 604-10.5(a) to state: "Public servant" does not include other public employees covered under chapter 76 and 89, HRS. And we recommend adding a savings clause that states: "This Act does not affect rights and duties of public employers and their employees covered under chapter 76 and 89, HRS."

We also recommend that section 604-10.5(l)(1), HRS, on page 15, lines 9-10, be amended to read as follows:

"(1) Create a duty for a public employer to petition for relief on behalf of a public servant, even if the public employer has notice or reasonably has notice of alleged employment-related credible threat of violence or unlawful violence."

As this bill's definition of "harassment" in section 604-10.5(a) at page 6, lines 4 - 13 broadly covers almost all threats of physical injuries or emotional distress, without considering its criminal statutes equivalent under sections 711-1106(1), 711-1106.4, 711-1106.5, and 711-1106.6, HRS, the public servants' individual rights to pursue other legal remedies could be jeopardized. Importantly, we emphasize that the successful TRO proceedings cited under the California Code involved "credible threats of violence," which translate to threats of grave or serious physical injuries against the public employees, rather than harassment generally.

Reading the bill's definitions together, we believe that the bill's purpose would be better achieved where TRO or injunction is authorized to narrowly protect the public servants from grave or serious physical injuries and threats thereof, rather than harassment generally. The public servants could then be protected from grave or serious dangers while fulfilling their obligations in serving their constituents or the people of Hawai'i.

Accordingly, we recommend section 604-10.5(a) be amended to include definitions of "credible threat of violence" and "unlawful violence" as follows:

"Credible threat of violence" means a knowing and willful statement or course of conduct that would place a reasonable person in fear for their

safety amounting to a threat of grave or serious physical harm, bodily injury, or assault, and that serves no legitimate purpose.

. . .

"Unlawful violence" means grave or serious physical harm, bodily injury, or assault, or any violation of chapter 707, HRS."

Yet, the duty to notify law enforcement of immediate danger or threat to the health and safety of any individual or workplace or the public must rest upon the public servants; and, for relief under this bill, the public servants must complete a credible threat of violence or unlawful violence report with law enforcement. We therefore recommend amending section 604-10.5(g) at page 11, line 4, to page 13, line 10, and adding subsection (m) to section 604-10.5, HRS, to read as follows (modifications indicated in bold):

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

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

If the court finds by clear and convincing evidence that harassment as defined in paragraph (1) of that definition exists, it may enjoin for no more than three years further harassment of the petitioner[;] **or the public servant on whose**

behalf the petition is filed, or that harassment as defined in paragraph (2) of that definition exists, it shall enjoin for no more than three years further harassment of the petitioner[;] or the public servant on whose behalf the petition is filed, including, in the case where any party is enjoined from harassing a minor, for a period extending to a date after the minor has reached eighteen years of age; provided that this subsection shall not prohibit the court from issuing other injunctions against the named parties even if the time to which the injunction applies exceeds a total of three years.

If the court finds by clear and convincing evidence that credible threat of violence or unlawful violence as defined in those definitions exist, it may enjoin for no more than three years further credible threat of violence or unlawful violence of the petitioner. Clear and convincing evidence shall include all of the following:

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

(i) That a public servant has suffered credible threat of violence or unlawful violence by the respondent; and

(ii) That the course of conduct at issue served no legitimate purpose; and

(B) Any reasonable proof to the satisfaction of the court.

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

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

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

...

(m) The public servant should immediately notify law enforcement regarding any conduct or situation that poses an imminent danger or threat to the health or safety of any individual or workplace or the public.

Third, from an enforcement standpoint, it may be difficult to enforce the TRO or injunction if the petitioner is only identified as "the respective branch of government or department" on page 15, line 3.

There is a potential notice issue if an order is not clear and unambiguous as to what the respondent specifically cannot do, such as who the respondent would need to not contact or stay away from. State v. Guyton, 135 Hawai'i 372, 351 P.3d 1138 (2015). Also, section 604-105, HRS, already permits the usage of "jane doe" or "john doe" and the sealing of records, as necessary. We thus recommend amending section 604-10.5(k), HRS, to add the bold wording, below:

"(k) A petition under this section filed by a public employer of a public servant shall identify the "Petitioner" as the respective branch of government or department on behalf of the named public servant; provided that the state judiciary shall be identified as the "Administrative Director of the Courts";"

An additional caveat is to update the District Court's TROs and Injunctions Against Harassment forms issued under section 604-10.5, HRS, or to require the issuance of forms in this bill so that the public servants could be identified for the purpose of sufficient notice, if this bill passes.

There is also a risk that identifying petitioner as "the respective branch of government or department" could be construed as overboard. Clear and ambiguous also mean that the four corners of the order must be readily ascertainable to a person of ordinary intelligence. Issuing a TRO to protect a petitioner who is identified only by the branch of government or the department, would have the effect of preventing the

respondent from contacting, entering, and/or visiting that branch of government or department for any purpose. This may raise First Amendment and Due Process issues.

The First Amendment guarantees the right to petition the government to redress grievances, which includes not just petitioning the Legislature but also the right to access the courts, departments, and administrative agencies. Cal. Motor Trans. Co. v. Trucking Unlimited, 404 U.S. 508, 510 (1972); Bill Johnson's Rests. v. NLRB, 461 U.S. 731 (1983).

There are already due process concerns based on the nature of a TRO, which is why the respondents are entitled to an evidentiary hearing before a TRO can be converted into a three-year injunction. Luat v. Cacho, 92 Hawai'i 330, 346, 991 P.2d 840, 856 (Ct. App. 1999), as amended (Dec. 21, 1999). Even more generally, the respondents could, inadvertently, be prevented from exercising their rights or accessing social services. The respondents are entitled to due process before the termination or denial of social services. Punohu v. Sunn, 66 Haw. 489, 666 P.2d 1135 (1983). There are additional legitimate reasons that the respondents would have for contact with the respective branch of government or department, more specifically listed as the Governor and Lieutenant Governor's offices, the Legislature, the State and federal courts, the Office of Elections, etc. For a very relevant example, a respondent would need access to State appellate court to appeal an order. As such, any petition filed under this bill, if it is enacted must identify the public servants as part of the petitioner's information.

Thank you for considering our comments.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/12/2026

Time: 09:30 AM

Location: 309 VIA VIDEOCONFERENCE

Committee: LAB

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB2091, RELATING TO PETITIONS TO TEMPORARILY RESTRAIN AND ENJOIN HARASSMENT OF AN EMPLOYEE.

Purpose of Bill: Authorizes public employers to petition for temporary restraining orders and injunctions against employment-related harassment of certain public employees.

Department's Position:

The Hawaii State Department of Education (Department) supports HB 2091, which expands protections against employment-related harassment. This bill authorizes a public employer to petition the district court for a temporary restraining order and an injunction from further harassment on behalf of certain employees who have been subjected to harassment. The Department, however, would note that the protections in the bill are limited to high-level employees. Harassment and violent behavior interrupt every employee's ability to do their jobs and lead to the loss of institutional knowledge. These protections should be available to the Department's employees at all levels.

HB 2091 would provide a legal mechanism for the Department to proactively protect its employees from work-related harassment and threats of violence.

The Department would also defer to the Attorney General's office for guidance as to the implementation of this measure.

Thank you for the opportunity to provide comments on HB 2091.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature 2026 Regular Session

House Committee on Labor

Representative Jackson D. Sayama, Chair
Representative Mike Lee, Vice Chair

Thursday, February 12, 2026, 9:30 a.m.
State Capitol
Conference Room 309 & Videoconference

by:

Nicholas J. Severson
Staff Attorney for the Hawai‘i Supreme Court

Bill No. and Title: House Bill No. 2091, Relating to Petitions to Temporarily Restrain and Enjoin Harassment of an Employee.

Purpose: The purpose of this Act is to expand protections against employment-related harassment by allowing public employers to secure a temporary restraining order and permanent injunction on behalf of a harassed employee. Effective upon approval.

Judiciary’s Position:

The Judiciary strongly supports this bill, which is part of the Judiciary’s legislative package, and respectfully requests the Committee pass the measure.

The pressing need for this legislation is demonstrated by the alarming increase in harassment, acts of violence, and threats against public servants. As detailed in the preamble of HB 2091, multiple studies have shown an increase in harassment, acts of violence, and threats against public officials. A 2021 study by the National League of Cities found that eighty-one per cent of local public officials surveyed said they had experienced harassment, threats, or violence in recent years. In addition to having their safety and well-being threatened, the report found that harassment and violent behavior interrupted local officials’ ability to do their jobs and led to the loss of institutional knowledge. See HB 2091 at 1:10 to 2:3. This harassment and violent conduct inhibits the ability of public officials to carry out their critical



duties and has the effect of driving people away from public service. Threats and attacks against judges are also increasing nationwide.

Current law allows an individual to obtain a temporary restraining order against harassment on their own behalf. HB 2091 would allow public employers to seek district court restraining orders on behalf of certain public servants based on public employment related harassment. The bill clearly defines both “public employer” and “public servant.” See HB 2091 at 6:14 to 8:15. The bill also makes clear that this remedy is available to “any public employer of a public servant who has been subjected to harassment related to their employment as a public servant.” See HB 2091 at 8:18-20. These important distinctions clarify that the expanded protections only apply to public employers seeking protection for public servants, as defined by the measure, who are subjected to harassment, threats, or violent conduct directly related to their employment. The bill would not create a duty to seek relief and rather makes taking such action discretionary. See HB 2091 at 15:6-13.

California enacted a similar law in the 1990s, which has proven effective in protecting public employees from harassment related to their work. Some examples of the effectiveness of these protections are outlined in the bill. They include the Administrative Office of the Courts obtaining a protective order for a judicial official who received death threats from a party in a family court matter, the County of Los Angeles obtaining a restraining order on behalf of five employees who were subjected to stalking and threats of sexual violence by a member of the public, and a state university obtaining a restraining order against a former employee who purchased firearms and made death threats against various employees. See HB 2091 at 4:4 to 5:2.

These expanded protections have proven to be effective. Allowing a public employer to pursue protective orders on behalf of public servants lessens the individual burden on these employees as they continue to work on behalf of the public. It also allows public employers to help ensure continuity of operations and maintain a safe working environment for their employees.

Enforcement. If a court finds by clear and convincing evidence that harassment as defined by the statute has occurred, the offending individual shall be prohibited from engaging in further harassment. See HB 2091 at 12:3-16. Should the offending individual continue to engage in harassment, any “knowing or intentional” violation of the restraining order or injunction would constitute a crime subject to sentences, including incarceration. See HB 2091 at 13:14 to 14:7. Additionally, pursuant to HRS § 134-7, an individual under a restraining order is required to relinquish possession and control of any firearms and ammunition. See HB 2091 at 5:5-11.

In summary, the Judiciary strongly supports HB 2091.

Thank you for the opportunity to testify on this matter.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

**HOUSE OF REPRESENTATIVES
THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026**

COMMITTEE ON LABOR
Rep. Jackson D. Sayama, Chair
Rep. Mike Lee, Vice Chair

Thursday, February 12, 2026, 9:30 PM
Conference Room 309 & Videoconference

Re: Testimony on HB2091– RELATING TO PETITIONS TO TEMPORARILY RESTRAIN AND ENJOIN HARASSMENT OF AN EMPLOY HARRASSMENT OF AN EMPLOYEE

Chair Sayama, Vice Chair Lee, and Members of the Committee:

United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) **supports** HB2091, which authorizes public employers to petition for temporary restraining orders and injunctions against employment-related harassment of certain public employees.

As the exclusive bargaining representative for approximately 12,000 public employees in Bargaining Unit 1 and Bargaining Unit 10, UPW strongly believes our members should feel assured that their employers are committed to taking effective action against harassment. Given recent events and the apparent rise in incidents of harassment targeting public employees, it seems evident, unfortunately, that this legislation is necessary to protect the rights and dignity of the hard-working public employees who are tasked with providing essential services to our communities and are often most vulnerable to this sickening behavior.

We humbly request that the committee amend this bill to also include all public employees of the State of Hawaii or any of its political subdivisions.

Mahalo for the opportunity to testify in support of this bill.

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Toll Free - Molokai/Lanai only



The House Committee on Labor
February 12, 2026
Room 309
9:30 AM

RE: **HB 2091, Relating to Petitions to Temporarily Restrain and Enjoin Harassment of an Employee**

Attention: Chair Jackson D. Sayama, Vice Chair Mike Lee, Members of the Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 2091 with amendments.**

We endorse the concept of empowering employers to petition for temporary restraining orders and injunctions, as this shifts the emotional and financial burden of seeking legal protection away from the individual employee and onto the employer responsible for workplace safety. However, we respectfully request an amendment regarding the definition of "Public servant" to ensure this protection extends to all public employees.

The bill's current definition of "Public servant" is limited to a specific list of high-ranking officials, judges, and legislators. This approach excludes many frontline public employees—including University faculty—who are increasingly subjected to harassment simply for fulfilling their professional responsibilities. To address this gap and ensure the University can utilize this law to protect its employees, we propose replacing the bill's narrow list with the established definition of "Public servant" found in HRS §710-1000.

Under HRS §710-1000, "Public servant" is already defined broadly as "any officer or employee of any branch of government, whether elected, appointed, or otherwise employed." Adopting this existing statutory definition ensures consistency across the Hawaii Revised Statutes and guarantees that all high-ranking officials currently listed in HB 2091 remain covered, while ensuring that other essential public employees are not arbitrarily excluded.

With this amendment, UHPA supports the passage of HB 2091.

Respectfully submitted,

Christian L. Fern
Executive Director
University of Hawaii Professional Assembly

University of Hawaii
Professional Assembly

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii
The House of Representatives
Committee on Labor

Testimony by
Hawaii Government Employees Association

February 12, 2026

H.B. 2091 — RELATING TO PETITIONS TO TEMPORARILY RESTRAIN AND ENJOIN HARASSMENT OF AN EMPLOYEE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO wishes to provide comments on H.B. 2091, which authorizes public employers to petition for temporary restraining orders and injunctions against employment-related harassment of certain public employees. **We respectfully request an amendment to broaden the definition of 'public servant' starting on page 6 line 21 to include all public employees employed within the State or any of its political subdivisions.**

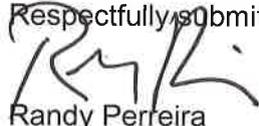
For years, our organization has been a staunch proponent for more employer intervention and responsibility when an employee is subjected to work related harassment, threats, and even assault. We have strongly advocated that the employer provide support and assistance if a temporary restraint order (TRO) is necessary and advisable. The proposed process in this bill empowers the employer to do just that, except that it fails to include any rank-and-file employees, many of whom are public facing and are put into positions where they are likely to be exposed to actions that may warrant a TRO or prosecution.

While we acknowledge the need to extend the protection of Section 604-10.5 to include justices, judges, and other employees of the Judiciary, we consider it shameful that this same level of protection and support is not afforded to rank and file employees. To further grant the authority to the governor and other officials in the proposal to subjectively designate select other employees to be covered by this protection is an insult to the employees who face the public daily and are most susceptible to harassment and intimidation. Excluding rank and file employees from this proposal is just plain wrong.

Considering the many incidents of harassment suffered by employees, including the high-profile assault suffered by an employee earlier this year, it would be truly shameful to move forward this version of the bill that would protect only a select few and not all public employees. Our amendment would ensure that all public employees, irrespective of position, would receive the benefits of this proposed process.

Thank you for the opportunity to provide comments on H.B. 2091.

Respectfully submitted,


Randy Perreira
Executive Director