

ACT 268

H. B. NO. 2324-80

A Bill for an Act Relating to Restraining Orders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 585-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 585-1 Application and order. Upon application to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The family court shall designate an employee to assist a person in completing the application which shall be in writing upon forms provided by the court. The order issuing therefrom may be granted to any person who, at the time such order is granted, was actually residing, or has previously resided, with the person or persons to whom such order is directed. The family court judge may issue the ex parte temporary restraining order orally, but shall reduce the order to writing by the close of the next court day following the application. The order shall state that there is probable cause to believe that a recent past act or acts of violence have occurred, or that threats of violence make it probable that acts of violence may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of violence, or a recurrence of actual domestic violence, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the children or other relatives of the applicant residing with the applicant at the time of the granting of the order. The order shall not only be binding

upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them.”

SECTION 2. Section 585-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 585-2 Period of order; hearing.** A temporary restraining order granted pursuant to this chapter shall remain in effect, at the discretion of the court, not to exceed thirty days, unless otherwise continued or terminated by the court. On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court shall, after giving due notice to all parties, hold a hearing on the application requiring cause to be shown why the order should not continue. All parties shall be present at the hearing and may be represented by counsel. If after hearing all relevant evidence, the court finds that a further period of separation of the parties is necessary to prevent domestic violence or a recurrence of violence, the court may order extensions of the order for additional thirty-day periods from the final day of the order, or extended order; provided that a hearing shall be held prior to any extension of the order beyond sixty days from the date the temporary restraining order was first granted.”

SECTION 3. Section 585-4, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 585-4 Remedies for enforcement of order.** Any wilful disobedience of a temporary restraining order granted under this chapter shall be a misdemeanor, and any other disobedience of a restraining order may be treated by the court as a civil contempt. All remedies for the enforcement of judgments shall apply to this chapter.”

SECTION [4]. † Statutory material to be repealed is bracketed. New material is underscored.*

SECTION [5]. † This Act shall take effect upon its approval.

(Approved June 13, 1980.)

†Bracketed “4” and “5” substituted for “3” and “4” to correct obvious clerical error.

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.