

ACT 123

H.B. NO. 2215-82

A Bill for an Act Relating to Domestic Abuse.

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

SECTION 1. Chapter 585, Hawaii Revised Statutes, is repealed.

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

**“CHAPTER  
DOMESTIC ABUSE PROTECTIVE ORDERS**

§ -1 **Definitions.** As used in this chapter:

“Domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, between family or household members; or
- (2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

“Family or household members” means spouses or former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

§ -2 **Court jurisdiction.** An application for relief under this chapter may be filed in any family court in the circuit in which the petitioner resides. Actions under this chapter shall be given docket priorities by the court.

§ -3 **Order for protection.** (a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(b) A petition for relief under this chapter may be made by any family or

household member on his or her own behalf or on behalf of minor family or household members.

(c) A petition for relief shall be in writing and upon forms provided by the court and shall allege that a recent past act or acts of abuse have occurred, or that the threats of abuse make it probable that acts of abuse may be imminent; and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(d) The family court shall designate an employee or appropriate non-judicial agency to assist the person in completing the petition.

§ -4 **Temporary restraining order.** Upon petition 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 order may be granted to any person who, at the time such order is granted, is a family or household member as defined in section -1. 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 abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of abuse, or a recurrence of actual domestic abuse, 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.

§ -5 **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. 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. In the event that service has not been effected, the court may set a new date for the hearing. 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 abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed ninety days from the date of its initial order.

The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders estab-

lishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services.

§ -6 **Service of order.** Any order issued under this chapter shall be personally served upon the respondent.

§ -7 **Assistance of police in service or execution.** When an order is issued under this chapter upon request of the petitioner, the court may order the police department to serve the order and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence.

§ -8 **Right to apply for relief.** (a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

§ -9 **Modification of order.** Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

§ -10 **Copy to law enforcement agency.** (a) Upon the request of the petitioner, any order for protection granted pursuant to this chapter shall be forwarded by the clerk of the court within twenty-four hours to the county police department.

(b) Each county police department shall make available to other law enforcement officers in the same county, through a system for verification, information as to the existence and status of any order for protection issued pursuant to this chapter.

§ -11 **Violation of an order for protection.** Whenever an order for protection is granted pursuant to this chapter and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. All remedies for the enforcement of judgments shall apply to this chapter."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1982.)