

ACT 69

S.B. NO. 1023

A Bill for an Act Relating to the Courts.

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

SECTION 1. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“§604- Power to enjoin and temporarily restrain harassment. (a) For the purposes of this section:

“Course of conduct” means a pattern of conduct composed of a series of acts over any period of time evidencing a continuity of purpose.

“Harassment” means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer emotional distress.

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

(c) Any person who has been subjected to harassment may petition the district court of the district in which the petitioner resides for a temporary restraining order and an injunction from further harassment.

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

(d)¹ Upon petition to a district court under this section, the court may temporarily restrain for a period of fifteen days, persons named in the petition from harassing the petitioner if the alleged harassment has caused the petitioner substantial emotional distress. The court may issue an ex parte temporary restraining order either in writing or orally, provided that oral orders shall be reduced to writing by the close of the next court day following oral issuance.

(e) A hearing on the petition to enjoin harassment shall be held within fifteen days after it is filed. The parties named in the petition may file responses explaining, excusing, justifying, or denying the alleged act or acts of harassment. The court shall receive such evidence as is relevant at the hearing, and may make independent inquiry.

If the court finds by clear and convincing evidence that harassment exists, it shall enjoin for no more than three years further harassment of the petitioner; provided that this paragraph 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.

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

(g) Wilful violations of orders issued under this section shall be punishable as criminal contempt under section 710-1077.

(h) Nothing in this section shall be construed to prohibit constitutionally protected activity."

SECTION 2. New statutory material is underscored.²

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

(Approved April 22, 1986.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.