

ACT 315

H.B. NO. 920

A Bill for an Act Relating to Family Court.

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

SECTION 1. Section 586-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A petition for relief under this chapter may be made by:

- (1) [any] Any family or household¹ on his or her own behalf or on behalf of a family or household member who is a minor, or who is incapacitated as defined in section 560:5-101(2), or who is physically unable to go to the appropriate place to complete or file the petition[.]; or
- (2) Any state agency on behalf of a person who is a minor, or who is incapacitated as defined in section 560:5-101(2), or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.”

SECTION 2. Section 586-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§586-4]]]~~¹ **Temporary restraining order.** (a) 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

ACT 315

member as defined in section 586-1[.] or who filed a petition on behalf of a family or household member.

(b) 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 applicant's family or household members. 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 3. Section 586-5, Hawaii Revised Statutes, is amended to read as follows:

"§586-5 Period of order; hearing. (a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, not to exceed thirty days[.] from the date the order is granted.

(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order¹ 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[.] provided that said date shall not exceed thirty days from the date the temporary restraining order was granted. 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 one hundred-eighty 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 establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services."

SECTION 4. Chapter 586, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§586- Protective order. If after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order 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 one hundred-eighty days from the date the protective order is granted. However, if the court has ordered a party to participate in treatment or counseling services, the court may extend the term of the protective order

for an additional one hundred-eighty days to enforce the order for treatment or counseling.

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 establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court may further order that the party be taken to the nearest facility for emergency examination and treatment.”

SECTION 5. Section 586-6, Hawaii Revised Statutes, is amended to read as follows:

“**[§586-6]** **Service of order.** Any order issued under this chapter shall be personally served upon the respondent[.] unless the respondent was present at the hearing in which case the respondent may be served by regular mail.”

SECTION 6. Section¹ 586, Hawaii Revised Statutes, is amended to add a new section to read as follows:

“**§586- Effective date.** The temporary restraining order shall be effective as of the date of signing and filing. Protective orders orally stated by the court on the record shall be effective as of the date of the hearing until further order of the court; provided that all oral orders shall be reduced to writing within one week of the hearing date.”

SECTION 7. Section¹ 586, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“**§586- Reports by the department of social services and housing.** In cases where there are allegations of domestic abuse involving a minor family or household member, the employee or appropriate nonjudicial agency designated by the family court to assist the petitioner shall report the matter to the department of social services and housing, as required under chapter 350, and shall further notify the department of the granting of the temporary restraining order and of the hearing date. The department of social services and housing shall provide the family court with an oral or written report of the investigation’s progress on or before the hearing date.”

SECTION 2¹ Statutory material to be repealed is bracketed. New statutory material is underscored².

SECTION 3.¹ This Act shall take effect upon approval.

(Approved June 26, 1987.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.