

A Bill for an Act Relating to Harassment.

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

SECTION 1. Section 604-10.5, Hawaii Revised Statutes, is amended by amending subsections (d), (e), and (f) to read as follows:

“(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.

(e) Upon petition to a district court under this section, the court may temporarily restrain [for a period of fifteen days,] the person or persons named in the petition from harassing the petitioner [if the alleged harassment has caused the petitioner substantial emotional distress.] upon a determination that there is probable cause to believe that a past act or acts of harassment have occurred or that a threat or threats of harassment may be imminent. 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.

(f) 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. A hearing on the petition to enjoin harassment shall be held within fifteen days after [it is filed.] the temporary restraining order is granted. In the event that 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 [such] all evidence [as] 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 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; 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.

Any order issued under this [subsection] section shall be served upon the respondent. For the purposes of this section, “served” shall mean actual personal service, service by certified mail, or proof that the respondent was present at the hearing in 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 (h).

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

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1999.

(Approved June 28, 1999.)