

ACT 27

H.B. NO. 1237

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. The legislature finds that temporary restraining orders, protective orders, and injunctions restraining a person from contacting, threatening, physically abusing, or harassing a minor typically expire when the minor reaches the age of majority because there is ambiguity whether the courts have the authority to issue these orders for a period that extends beyond the date when the minor turns eighteen years of age. This forces the now eighteen-year-old who was previously protected to return to court and complete the process again.

The purpose of this Act is to clarify that the courts have the authority to issue temporary restraining orders, protective orders, and injunctions for reasonable time periods that expire after a protected minor reaches the age of majority.

SECTION 2. Section 586-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, for a period not to exceed one hundred eighty days from the date the order is granted or until the effective date, as defined in section 586-5.6, of a protective order issued by the court, whichever occurs first[-], including, in the case where a temporary restraining order restrains any party from contacting, threatening, or physically abusing a minor, for a period extending to a date after the minor has reached eighteen years of age.”

SECTION 3. Section 586-5.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) 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 a further fixed reasonable period as the court deems appropriate[-], including, in the case where a protective order restrains any party from contacting, threatening, or physically

abusing a minor, a fixed reasonable period extending to a date after the minor has reached eighteen years of age.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court further may order that the party be taken to the nearest facility for emergency examination and treatment.

(b) A protective order may be extended for ~~[such]~~ a further fixed reasonable period as the court deems appropriate~~[-]~~, including, in the case where a protective order restrains any party from contacting, threatening, or physically abusing a minor, for a fixed reasonable period extending to a date after the minor has reached eighteen years of age. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred before the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the preceding 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 and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties.”

SECTION 4. Section 604-10.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) 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~~[-]~~, including, in the case where a temporary restraining order restrains any party from harassing a minor, for a period extending to a date after the minor has reached eighteen years of age. A hearing on the petition to enjoin harassment shall be held within fifteen days after the temporary restraining order is granted. If 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 all evidence 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~~[-]~~, including, in the case where any party is enjoined from harassing a minor, for a period extending to a date after the minor has reached eighteen years of age; provided that this ~~[paragraph]~~ subsection 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 section shall be served upon the respondent. For the purposes of this section, “served” ~~[shall mean]~~ means actual personal service, service by certified mail, or proof that the respondent was present at the hearing at 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 (i).

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

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 28, 2021.)