

JAN 23 2008

A BILL FOR AN ACT

RELATING TO ALTERNATIVE DISPUTE RESOLUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 604-10.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) The district courts shall have power to enjoin ~~or~~,
5 prohibit, or temporarily restrain harassment. The district
6 court, in its discretion or upon motion by a party, may order
7 the parties to participate in an alternative dispute resolution
8 process subject to conditions imposed by the court."

9 2. By amending subsection (f) to read:

10 "(f) A temporary restraining order that is granted under
11 this section shall remain in effect at the discretion of the
12 court for a period not to exceed ninety days from the date the
13 order is granted. A hearing on the petition to enjoin
14 harassment shall be held within fifteen days after the temporary
15 restraining order is granted. In the event that service of the
16 temporary restraining order has not been effected before the
17 date of the hearing on the petition to enjoin, the court may set



1 a new date for the hearing; provided that the new date shall not
2 exceed ninety days from the date the temporary restraining order
3 was granted.

4 The parties named in the petition may file or give oral
5 responses explaining, excusing, justifying, or denying the
6 alleged act or acts of harassment. The court shall receive all
7 evidence that is relevant at the hearing, and may make
8 independent inquiry.

9 If the court finds by clear and convincing evidence that
10 harassment as defined in paragraph (1) of that definition
11 exists, it may enjoin for no more than three years further
12 harassment of the petitioner, or that harassment as defined in
13 paragraph (2) of that definition exists, it shall enjoin for no
14 more than three years further harassment of the petitioner;
15 provided that this paragraph shall not prohibit the court from
16 issuing other injunctions against the named parties even if the
17 time to which the injunction applies exceeds a total of three
18 years ~~[-]~~ or ordering the named parties to participate in
19 alternative dispute resolution pursuant to subsection (b).

20 Any order issued under this section shall be served upon
21 the respondent. For the purposes of this section, "served"
22 shall mean actual personal service, service by certified mail,



1 or proof that the respondent was present at the hearing in which
2 the court orally issued the injunction.

3 Where service of a restraining order or injunction has been
4 made or where the respondent is deemed to have received notice
5 of a restraining order or injunction order, any knowing or
6 intentional violation of the restraining order or injunction
7 order shall subject the respondent to the provisions in
8 subsection (h).

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

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Fuzanne Chum O'Connell



Report Title:

District Courts; Harassment; Alternative Dispute Resolution

Description:

Authorizes a district court to order parties to participate in an alternative dispute resolution process in cases to enjoin and temporarily restrain harassment.

