How To Get A District Court Protective Order

Temporary Restraining Orders (TRO's) are issued by the District Court when the Court determines there has been a pattern of harrassment including: physical/sexual violence, threats of violence, malicious property damage, psychological abuse, stalking and/or repeated unwanted contact.

If you are not related to the person who is abusing you and you have never lived together, go to the Honolulu District Court, Regular Claims Division, located at 1111 Alakea Street, third floor, to file a request for a TRO. You can apply for a TRO between 7:45 a.m. and 3:00 p.m., Monday through Friday, except for holidays. No appointment is necessary.

Bring coins for metered parking or enough money to park in a lot. Alii Place, 1099 Alakea Street, across the street from the Honolulu District Court, provides parking at reasonable public rates. It takes about two hours to get a TRO.

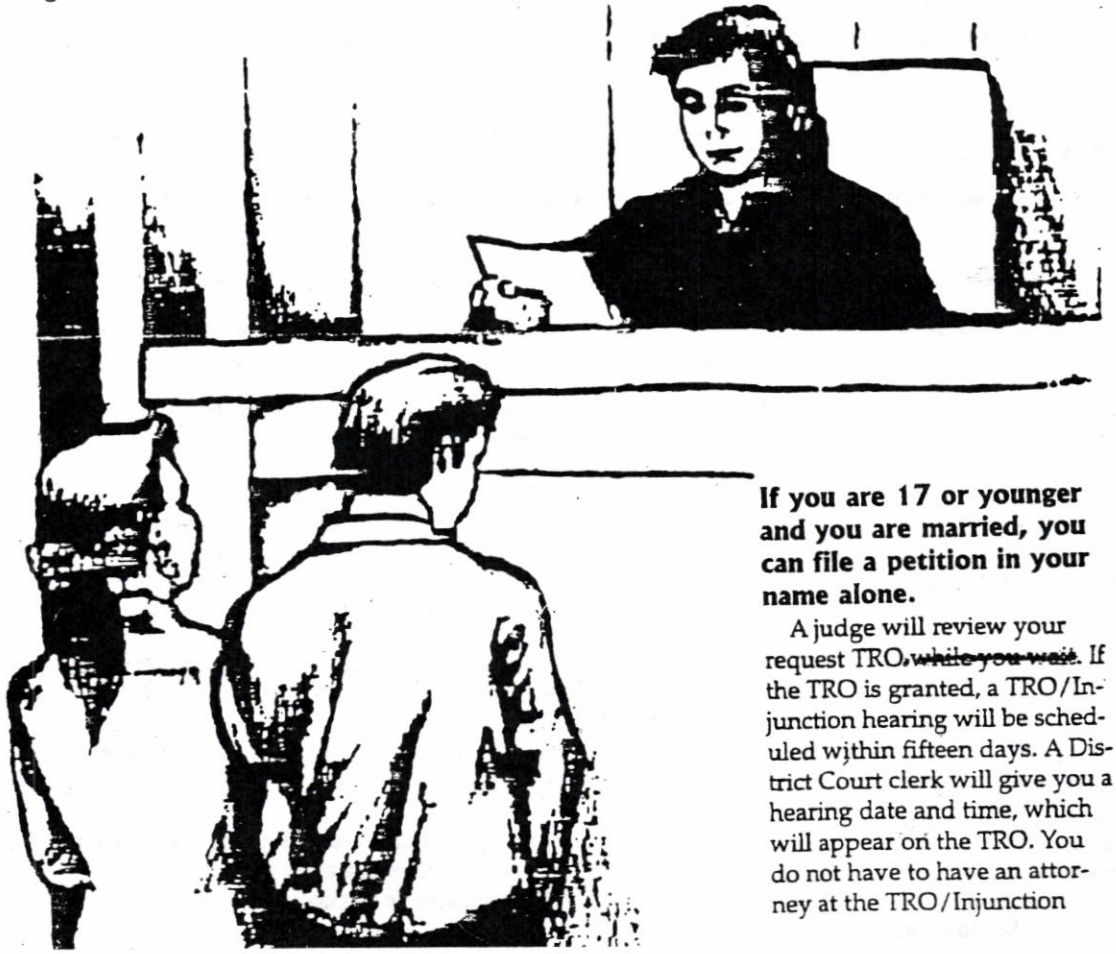
A District Court clerk will help you fill out the necessary forms. You will be the "Petitioner"; the abuser is called the "Respondent." If the TRO is granted, the Respondent will receive a copy. If you are afraid for the Respondent to know your address or telephone number, explain that to the clerk.

It is possible to let the court know how to reach you, without the Respondent knowing where you are.

The petition should contain the dates of the abuse and specifics regarding violence or threats of violence. Describe the physical and psychological abuse, the verbal threats and the property damage. You can include medical records, police reports or other documents about the abuse. If the Respondent possesses or has threatened you with guns, be sure to include that information in the petition.

Be prepared to give details regarding the abuse. Failure to provide a detailed statement can result in the petition being denied.

If you are 17 or younger, one of your parents or a legal guardian needs to come with you to file for the TRO on your behalf. If the abuser is a minor, the abuser's parent or guardian should be named as the Respondent on the abuser's behalf. If you cannot have a parent or legal guardian come with you, explain why in your petition.



If you are 17 or younger and you are married, you can file a petition in your name alone.

A judge will review your request TRO~~, while you wait~~. If the TRO is granted, a TRO/Injunction hearing will be scheduled within fifteen days. A District Court clerk will give you a hearing date and time, which will appear on the TRO. You do not have to have an attorney at the TRO/Injunction hearing, but you may want one, especially if you think the Respondent will obtain legal counsel.

There is a ~~$45.00~~ $15.00 filing fee for the TRO, which can be waived in exceptional circumstances.

No person who has been restrained pursuant to any order of any court from contacting, threatening, or physically abusing any person, shall possess or control any firearm or ammunition so long as the protective order or any extension thereof is in effect. Chapter 134, Hawaii Revised Statutes

Personal checks are accepted. Ask the clerk to "conform" all copies by stamping the judge's signature and the date of signing on all orders. Request an extra certified copy and two copies of the "Return of Service".

You must then take the TRO papers to the the police, who will "serve" the Respondent, which means give the Respondent a copy of the TRO. Go to the police station in the same area where the Respondent resides. Give the police exact addresses where the Respondent can be located and the times you would expect the Respondent to be at those addresses. There is no charge for this service.

revised 10/96

Your TRO is not officially in effect until the Respondent receives a copy.

Your TRO orders the Respondent not to contact you. While the TRO is in effect, there should be no contact either by the abuser or by anyone acting on the abuser's behalf. Report violations to the police immediately. If you initiate or invite contact with the abuser, your TRO is still valid, but the court and police may question your actions.

Keep a copy of your TRO with you at all times.

TRO/Injunction Hearing

The TRO/injunction hearing is where the judge decides whether or not to extend the TRO beyond 90 days. The judge can issue an Injunction for a longer term - for up to three years. The Respondent will be ordered by the court to appear. You must appear for this hearing, whether or not the Respondent has been served, or your petition will be dismissed.

At the hearing, the Respondent will have a chance to defend against the claims you have made.

Be prepared to present clear and convincing evidence about the abuse and/or violence.

You can bring witnesses, personal records, medical and police reports. Also tell the judge about any TRO violations that occurred after the Respondent was served.

If at the hearing, the Respondent has an attorney but you don't and you want an attorney, ask the judge for a continuance - another court date. This will give you time to get an attorney. The judge may or may not grant your request, but do not be discouraged if the judge says no. Just go ahead and present your evidence.

The judge will order the Respondent to turn his/her firearms over to the police.

If the Respondent is not at the hearing because he or she was not served, ask the judge to the temporary extend the TRO and get a new hearing date, which will usually be two weeks from the original date. Give your original TRO to the court reporters so your TRO is officially extended to the new hearing date. Then, take a copy of the new TRO to the police, like before, so the police can serve the Respondent with a TRO showing the new hearing date.

If the Respondent was served but fail to appear, the judge is likely to issue an Injunction for up to three years. The court will give you two copies, one to keep and one to take to the polices so the Respondent can be served. Again, the injunction is not effective until it has been served.

If, after the hearing, an Injunction is ordered to replace the TRO, stay in the courtroom until the judges gives both you and the Respondent certified copies of the new court order. You can ask the judge to hold the Respondent in the courtroom for an extra ten minutes while you go to the car or to the bus stop.

Again, keep a copy of your Injunction with you at all times and report violations to the policed immediately. Remember, a TRO or injunction does not necessarily make you safe.

You should always plan carefully for your own safety.

Call Domestic Violence Clearinghouse and Legal Hotline

531-3771

with your questions about separation, divorce, child custody and other legal issues.

This information jointly provided by the District Court of the First Circuit, Honolulu Division and Domestic Violence Clearinghouse and Legal Hotline

OAHU

Questions & Answers

I remembered my dreams, how I wanted my life to be. I left him. It was hard, but I made it. My life is good now."

-Anita Louise

What about counseling?

There are free support groups for battered women in your community. In these support groups, you can learn about community resources and sort out your options.

If your partner is willing to seek help, there are special program for batterers.

Studies show couples counseling often makes the violence worse, not better. It may not be safe to express your feelings. Your partner might hurt you later for what you say. Also, going to counseling together suggests you share the responsibility for the violence.

If my partner stops drinking or using drugs, will the violence stop?

Substance abuse and violence are two separate problems. Even if your partner stops using alcohol or other drugs, the abuse is likely to continue.

Should I believe my partners promise to change?

If your partner refuses to seek help, change is not likely. Most batterers deny they have a problem and blame others for their violent behavior. Often they grew up in violent homes where they were abused and/or saw their mothers being abused.

Even court ordered counseling may not make the violence stop. Assailants must choose to change. You cannot make that choice for your partner.

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT; DECLARATION OF PETITIONER; TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT; AND NOTICE OF HEARING

Form #1DC51

IN THE DISTRICT COURT OF THE FIRST CIRCUIT

_____ DIVISION

STATE OF HAWAI'I

Petitioner(s)	Reserved for Court Use Civil No. 1SS
Respondent(s) (if known, list Address, Telephone for each respondent)	Petitioner(s)/Petitioner(s)' Attorney (Name, Attorney Number, Firm Name (if applicable), Address, Telephone and Facsimile Numbers)

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT

This Petition is made pursuant to Hawai'i Revised Statutes section §604-10.5 and the following statement:

1. The Petitioner(s) is a resident(s) of the Division of the above District and Circuit, State of Hawai'i.

2. Based upon the attached Declaration of Petitioner(s), Petitioner(s) ask(s) for:
   a. An ex parte temporary restraining order not to exceed a period of ninety (90) days for protection enjoining Respondent(s) and any other person(s) acting on Respondent(s)' behalf from:

      ☐ contacting, threatening, or physically harassing

         ☐ Petitioner(s) ☐ Any person(s) residing at Petitioner(s)' residence

      ☐ telephoning the Petitioner(s)

      ☐ entering or visiting Petitioner(s)' ☐ residence, including yard and garage and ☐ place of employment.

   b. An order of an Injunction not to exceed a period of three (3) years, enjoining Respondent(s) and any other person(s) acting on Respondent(s)' behalf from committing those acts set forth in paragraph 2a. hereof.
   c. An order prohibiting Respondent(s) from owning or possessing firearm(s) and/or ammunition.
   d. An order awarding reasonable attorney's fees and costs to Petitioner(s) and such further relief as the Court deems just and appropriate.

(continued on reverse side)

Date:	Signature of Petitioner(s): Print/Type Name(s):

SEE REVERSE SIDE

I certify that this is a full, true, and correct copy of the original on file in this office.

_____

Clerk, District Court of the above Circuit, State of Hawai'i

DECLARATION OF PETITIONER(S)

Petitioner states the following is true:

- ☐ Recent or past act(s) of harassment occurred; and/or
- ☐ Threats of harassment make it probable that acts of harassment may occur soon.

Respondent(s) ☐ own; ☐ possess; or ☐ intend to obtain or possess

- ☐ firearm(s) and/or ammunition that may be used to threaten or injure Petitioner(s).

Describe the firearm(s)/ammunition: _____.

Location of the firearm(s)/ammunition: _____.

Date last seen: _____.

Street address/ specific location where last seen: _____.

(Explain in detail recent or past acts or threats of harassment, using additional sheets, if necessary.)

- ☐ Unless Respondent(s)' wrongful conduct is stopped or prevented by order of the Court, Petitioner(s) will suffer substantial emotional distress.

I have read the Petition and Declaration, know their contents, and verify that the statements contained therein are true to my personal knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAI'I THAT THE FACTS AND CIRCUMSTANCES STATED IN THE PETITION AND DECLARATION ARE TRUE AND CORRECT.

Date:	Signature of Petitioner(s): Print/Type Name(s):

TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT

Based upon the attached Petition for Ex Parte Temporary Restraining Order and Declaration of Petitioner(s) and pursuant to **Hawai'i Revised Statutes §604-10.5**, the Court finds there is probable cause to believe:

- ☐ Recent or past acts of harassment by Respondent(s) have occurred.
- ☐ Threats of harassment by Respondent(s) make it probable that acts of harassment may be imminent against Petitioner(s).

It appears to the Court that a Temporary Restraining Order should be granted and is necessary to prevent acts of harassment. Accordingly,
IT IS ORDERED that Respondent(s) shall appear before the Judge in the above-entitled proceeding at the date, time and place indicated in the Notice of Hearing below. Pending the hearing on this Petition, Respondent(s) is/are ordered as follows.

TO THE RESPONDENT:

YOU AND ANYONE ACTING ON YOUR BEHALF ARE ORDERED AS FOLLOWS:

- ☐ Do not contact, threaten, or physically harass Petitioner(s) and ☐ any person(s) residing at Petitioner(s)' residence
- ☐ Do not telephone Petitioner(s)
- ☐ Do not enter or visit Petitioner(s)' ☐ residence, including yard and garage, and ☐ place of employment.
- ☐ **Pursuant to HAWAI'I REVISED STATUTES §134-7, you shall not possess or control any firearm(s) and/or ammunition for the duration of this Temporary Restraining Order.**
- ☐ **You shall immediately turn over for safekeeping all firearms and/or ammunition in your possession and control to the Honolulu Police Department *(Firearms Unit, Main Station, 801 So. Beretania Street, 1st Floor, Honolulu Hawai'i 96813)*, for the duration of this Order or any extensions thereof.**

This Order becomes effective upon its signing and filing and shall remain in effect for fifteen (15) days, unless extended or terminated by the Court.

ANY KNOWING OR INTENTIONAL VIOLATION OF THIS TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT IS A MISDEMEANOR PUNISHABLE BY A JAIL SENTENCE OF UP TO ONE YEAR AND/OR UP TO A $2,000 FINE. A SENTENCE OF 48 HOURS JAIL FOR A SECOND CONVICTION AND 30 DAYS JAIL FOR ANY SUBSEQUENT CONVICTION(S) IS MANDATORY. [HAWAI'I REVISED STATUTES §604-10.5, §706-663 AND §706-640].

Date:	Judge of the above-entitled Court

NOTICE OF HEARING

TO: _____

_____

NOTICE IS GIVEN that the Petitioner(s) above named has/have filed the foregoing Petition for Ex Parte Temporary Restraining Order and for Injunction Against Harassment.

YOU ARE COMMANDED to appear before the Presiding Judge of the above-entitled Court, the District Court of the above Circuit, at 1111 Alakea Street, 10th floor, Courtroom B, Honolulu, Hawai'i 96813, on _____, _____, 20__ at 8:30 o'clock A.M.

Prior to the scheduled hearing date, you or your attorney may file a written response explaining, excusing, justifying, or denying the alleged act or acts of harassment. At the hearing, the parties shall be prepared to testify, call and examine witnesses, present any documents, and give legal or factual reasons why the Injunction should or should not be granted. Each party may be represented by an attorney and shall be prepared to proceed at the hearing. **IF YOU OR YOUR ATTORNEY FAIL TO ATTEND AT THE TIME AND PLACE DESIGNATED, AN ORDER GRANTING PETITION FOR INJUNCTION AGAINST HARASSMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE PETITION.**

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 by Respondent(s) in the form of physical harm, bodily injury, assault, of the threat of imminent physical harm, bodily injury to Petitioner exists, it may enjoin for no more than three years further harassment by Respondent(s). If the court finds by clear and convincing evidence that harassment by Respondent(s) in the form of an intentional or knowing course of conduct directed at Petitioner(s) that seriously alarms or disturbs, consistently or continually bothers Petitioner(s) and that serves no legitimate purpose exists, and such course of conduct would cause a reasonable person to suffer emotional distress, the court shall enjoin for no more than three years, further harassment by Respondent(s).

This Order shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the above-entitled Court permits, in writing on this Order, personal delivery during those hours.

Date:	Clerk of the above-entitled Court

In accordance with the Americans with Disabilities Act if you require an accommodation for your disability, please contact the District Court Administration Office at **PHONE NO.** 538-5121, **FAX** 538-5233, OR **TTY** 539-4853 at least ten (10) working days in advance of your hearing Or appointment date. For Civil related matters, please call 538-5151.

RETURN OF SERVICE; ACKNOWLEDGMENT OF SERVICE

TWO-SIDED FORM

Form #1DC47

IN THE DISTRICT COURT OF THE FIRST CIRCUIT

_____ DIVISION

STATE OF HAWAI'I

Plaintiff(s)

Defendant(s)

Reserved for Court Use

Court Date:

Civil No. **1SS**

Requestor(s)/Requestor(s)' Attorney (Name, Attorney Number, Firm Name (if applicable), Address, Telephone and Facsimile Numbers)

DOCUMENT(S) SERVED:

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT; DECLARATION OF PETITIONER; TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT; AND NOTICE OF HEARING

NAME OF PARTY SERVED:	ADDRESS WHERE SERVED:
DATE SERVED:	MILEAGE: $
TIME OF SERVICE:	NUMBER OF MILES TRAVELED:

☐ **FULL OR** ☐ **PARTIAL RETURN OF SERVICE**

I have read this Return of Service, know the contents and verify that the statements are true to my personal knowledge and belief. I **DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAI'I THAT THE FOLLOWING IS TRUE AND CORRECT:**

I, ☐ Deputy Sheriff, or ☐ Police Officer of the State of Hawai'i, or ☐ person who is not a party and is not less than 18 years of age, do certify that I received a certified copy of the documents listed above and that I served same on the Party Served above on the Date and Time of Service and at the Address listed above within the State of Hawai'i as listed on the reverse:

(continued on reverse side)

Signature:	
Print/Type Name:	Print/Type Address, Telephone and Facsimile Numbers:

ROS.2XX (Amended 4/18/97)v

SEE REVERSE SIDE

I certify that this is a full, true, and correct copy of the original on file in this office.

Clerk, District Court of the above Circuit, State of Hawai'i

☐ **FULL OR** ☐ **PARTIAL RETURN OF SERVICE (continued)**

☐ **PERSONAL**: By delivering to and leaving with _____, personally.

☐ **SUBSTITUTE**: [District Court Rules of Civil Procedure 4(d)(1)(i)] After due and diligent search and inquiry, I served the named party through _____

_____,

a person of suitable age and discretion then residing at said party's usual place of abode, since the party could not be found.

☐ **SUBSTITUTE**: [District Court Rules of Civil Procedure 4(d)(1)(ii)] I served the named party through _____,

_____ authorized agent to receive service of process for said party.

☐ **BUSINESS/CORPORATION/GOVERNMENTAL ENTITY**: I served (name of business/corporation/entity) _____

_____

through _____, who is the (position/title)

_____

and who is the authorized agent to accept service for said Business/Corporation/Governmental Entity.

☐ **GARNISHMENT**: I served (Name of Garnishee) _____

_____

through _____, who is the (position/title)

_____

and who is authorized to accept service for the above-named garnishee.

☐ **NOT FOUND**: After due and diligent search and inquiry, I am unable to find the party named above.

☐ **Special Circumstances**:

ACKNOWLEDGMENT OF SERVICE

Signature of Person served:

Print/Type Name:

In accordance with the **Americans with Disabilities Act** if you require an accommodation for your disability, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days in advance of your hearing or appointment date. For Civil related matters, please call 538-5151.

RETURN OF SERVICE MUST BE FILED NO LATER THAN 24 HOURS (EXCLUDING SATURDAY, SUNDAY AND LEGAL HOLIDAYS) PRIOR TO THE RETURN DATE AT 1111 ALAKEA STREET, CIVIL DIVISION, THIRD FLOOR, HONOLULU, HAWAI'I 96813.