

# TEMPORARY RESTRAINING ORDERS (TRO) IN KAUAI

This brochure provides information for Family Court TROs,  
but briefly discusses how to get a District Court TRO on page 3.

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## A. SAFETY PLAN FOR YOU AND YOUR CHILD(REN):

- ✓ **Call 911.**
- ✓ **Decide where you and your kids would go** and what you would do if you were in an unsafe situation.
- ✓ **Think about who to call** and give your child(ren) numbers to call and places to go in an emergency situation.
- ✓ **Talk to your neighbors and child(ren).** Let them know what is going on. Also talk to your family and child's school about the abuse.
- ✓ **Have a code word** you use with family and friends that lets them know to call the police.
- ✓ **Keep essential items accessible**, like medications, phone numbers, cash, extra clothes, important papers, keys, shelter number, I.D., etc.
- ✓ **Shelter Phone Number: 245-6362.** Keep the number with you. They are open 24 hours, and your child(ren) can go there, too. Also contact a domestic violence program.
- ✓ **Stay away from your partner.**
- ✓ **If communication is needed, do not be alone with the batterer.**
- ✓ **Free cellular phone.** If you file a TRO for abuse and you don't live with your abuser, apply for a free cell phone from Honolulu Cellular. The phone only dials 911. Call Honolulu Cellular at 1-800-654-2355 for more information.

## B. WHAT IS A TRO?

A Temporary Restraining Order (TRO) is a court order that tells an abuser s/he cannot contact, threaten or abuse you and/or any other household member named in the TRO.

You can file a TRO on behalf of your child/step-child if they are being abused, but also consider contacting Child Protective Services (CPS). The judge might ask for CPS intervention in the TRO proceeding anyway.

A TRO can include a "kick-out" order which tells the abuser s/he must move out of the home.

A TRO can award temporary child custody.

*A TRO does not award child support or permanent child custody.*

## C. HOW LONG DOES IT LAST?

Typically, the family court judges grant a TRO for 1 – 3 years. You can go to court to renew it after that period.

## D. HOW DO I GET A TRO?

1. **Apply for a 90-day "Ex Parte" TRO. (Two weeks in District Court).** This TRO is granted without your abuser being present and without your going before a judge. The TRO is meant to keep your abuser away while you are in the process of getting a permanent Protective Order that can last for up to three years. Family Court and District Court charge a \$15 filing fee.

**Family Court (Circuit Court):**

3970 Ka`ana Street  
 Lihu`e, Hawai`i 96766  
 Ph. (808) 482-2330  
 TTY: (808) 482-2533

Go to Family Court in the morning for your TRO if

- (a) you are related to your abuser,
- (b) you have lived with your abuser in the past, or
- (c) you have a child with your abuser, even if you never lived with him/her.

To receive assistance in applying for a Family Court TRO, call the YWCA Family Violence Shelter at **245-6362**, and they will make an appointment for you. If it is an emergency, let them know, and they can make an appointment for you on the same day.

**District Court**

3970 Ka`ana Street  
 Lihu`e, Hawai`i 96766  
 Ph. (808) 482-2303  
 TTY: (808) 482-2533

Go to District Court for your TRO if you want a TRO against:

- (a) a neighbor,
- (b) co-worker, or
- (c) someone you haven't lived with and do not have children with.

There is no YWCA assistance with this type of TRO. If you need a District Court TRO, you can request a fee waiver if you are low-income. Ask the court clerk for the fee waiver form.

**If you are 17 or under**, a parent or legal guardian must come with you and fill out the TRO on your behalf. If you cannot have a parent or guardian with you, explain why in your petition.

**If your abuser is 17 or under**, the abuser's parent or guardian must be named as a respondent on the abuser's behalf.

**If you are a married/emancipated minor**, you may file alone. Bring proof of your marriage/emancipation.

**2) The Interview:**

- **Make a list.** Before your interview, write down all past events of abuse and their dates, so you will not forget anything. Include an address and detailed description of where the abuser can be found and served with court papers. Failure to provide a detailed statement can result in the petition being denied.
- **At your interview** you will meet with a YWCA advocate. S/he will interview you and help you fill out the forms. You must be very specific about the history of abuse, including dates, so you should consider bringing your medical records, police reports, or other documents that will help you fill out your TRO application. You should decide what type of protection you want for yourself and your family. For example, you can request the following:

- i. the abuser move out of your home.
  - ii. temporary physical custody be awarded to you.
  - iii. the abuser have supervised visitation of the child(ren). The Judge will not grant the abuser supervised visitation in TRO orders but the Judge will address this request at the Order to Show Cause (OSC) hearing.
  - iv. the abuser must turn in firearms (describe the type of firearm).
- **Be honest.**

IF YOU DO NOT WANT YOUR ABUSER TO KNOW WHERE YOU LIVE, explain to the YWCA advocate that you are afraid of your abuser learning where you live. It is possible to let the court know how to reach you without your abuser knowing where you are. Or you can put down a post office box number and message phone number.

### 3) After the Interview:

- Once you complete the interview, you file your petition for the 90-day TRO with Family Court. You should file four (4) copies: (1) for the Court, (2) for the YWCA, (3) for the police, and (4) for yourself. Present the original and the copies to the clerk at Family Court. The clerk will find a judge to review your petition. If the judge approves it, s/he will sign the TRO, and the clerk will keep the original and return signed and filed copies to you.
- Make sure you read the TRO carefully so you fully understand what protections the Court gave you (it may be different from what you asked for).
- Give one copy to the YWCA.
- Give one copy to the Police, who will serve your abuser.
- Keep the remaining copy for yourself. Carry it on your person at all times. If the order is violated, call the Police right away and present the TRO to the police when they arrive.

### 4) Arrange for Service of the TRO. A TRO is “effective” as soon as the Judge signs it, but it is only “enforceable” against your abuser once s/he is given a copy of it. The TRO also provides notice to appear for the OSC Hearing.

- **DO NOT TRY TO SERVE THE ABUSER YOURSELF!** It is dangerous, and the Court will not accept this as “legal service.”
- **Get the forms from your YWCA advocate.** Tell the advocate your abuser’s address, and the best times to find him/her. The Advocate will put that information onto forms for you to take to the police. If your abuser is on

probation, give the name of the Probation Officer and the date of their meetings. The petition can be served on your abuser at that meeting.

- **Take the forms to your local police station.** Family Court orders the police to serve the TRO on your abuser.
  - **Call the police every twenty-four (24) hours** until they tell you they served your abuser. **The most dangerous time for a survivor of domestic violence is right after the abuser gets a copy of the TRO.** You need to know when the TRO was served on your abuser, so you can make sure to protect yourself.
  - **If your abuser has not been served by your hearing date,** you need to go to court and ask for another hearing date. The Court will usually continue the matter for another week or two.
- 5) **Order to Show Cause (OSC) Hearing:** at the OSC Hearing both you and your abuser get a chance to argue your side to the Judge. The Judge decides whether to dismiss the TRO or give you the Protective Order for one to three years.
- **A Deputy Sheriff will be present in the waiting room to protect you from your abuser.** While waiting, an advocate will ask you what exactly you want in the final Protective Order, if granted. Be specific about what protections you want and whom the Protective Order covers. The Judge can order the abuser to stay away from you and your child(ren), order the abuser to leave your home, give you temporary custody of your children and order the abuser to pay you temporary child support, order the police to come to your home while the abuser picks up personal belongings, give you possession of the car, furniture and other belongings, order the abuser to go to counseling, order the abuser not to call you at work, order the abuser to give weapons to the police, etc.
  - **You must present clear and convincing evidence of the abuse.** This means you must show the Court that the abuse happened. You can bring witnesses and personal records, including, but not limited to, police reports, medical records, your diary, threatening notes from your abuser, etc. Tell the Judge if your abuser has violated the TRO.
  - **You do not need an attorney at the OSC Hearing.** If your abuser comes with an attorney, you can ask the Judge for a later court date, or a “continuance,” to give you time to find an attorney. If the Judge does not grant a continuance, present your case.
  - **If the Judge issues the Protective Order, read it carefully.** The Protective Order may be different from what you asked for.
  - **The Court can hold your abuser for ten (10) minutes while you leave the building.**

**“S/he didn’t come to the OSC Hearing.”**

If the abuser was served but did not show up to the OSC Hearing, the Judge will most likely proceed and issue the Protective Order by Default. You must get two copies of the Protective Order and serve your abuser in the same manner as the TRO. The Protective Order does not take effect until it is served, so again you want to call the police every twenty-four (24) hours to find out when your abuser has been served.

**E. Enforcing Your TRO / Protective Order:** Violating a TRO is a misdemeanor criminal offence. Depending on the specific conditions of your TRO, your abuser could be breaking the law by harassing you on the phone, coming to your job or home, destroying your property, and/or threatening to hurt you or others. Read the TRO or Protective Order carefully to see what the Court has ordered.

- 1) **Keep a copy of your TRO / Protective Order with you at all times.** Be familiar with what it says. If you need to call the police, they will need to see it.
- 2) **Do not contact your abuser if you have a “no contact” TRO / Protective Order.** The TRO / Protective Order is binding on you, too. If you contact your abuser, you are violating the TRO / Protective Order. Police and the Court will be less sympathetic to your complaint if you have invited contact.
- 3) **If the abuser violates the TRO / Protective Order, call the police (911) right away for help and to report the violation.** Call the police even if the abuser only called you on the phone. If you are not near a phone at the time of the violation, call the police as soon as you get to a phone. An officer will come to your location. If the violator is still in the area, the police should make an arrest if there is evidence of a violation.
- 4) **Get the police officer’s name, badge number, and the report number.** Whether or not the abuser is arrested, the police must file a report. Tell the officer that you would like to write a statement for the police report. Be very detailed and specific regarding threats that were made and acts of violence and/or injury.
- 5) **If the abuser was not arrested, call the Division of the Prosecuting Attorney’s Office at 241-1888.** Report the violation after reporting it to the police. If the Prosecuting Attorney feels there is enough evidence, they will issue a penal summons on the violator to appear in court. If a penal summons is issued, you cannot drop the case. See page 8 for more information.
- 6) **Keep documentation – what the abuser did, what time, names of witnesses, what you did (called police), etc.** Documentation is a powerful tool. Keep your notes in a safe place.

- 7) **If you have questions about the arrest, call the Prosecuting Attorney's Office at 241-1888.**

**If the abuser is arrested, s/he will be taken to the police station and booked.** Bail is set from \$50 - \$1,000. The abuser will be required to appear for an arraignment hearing within seven (7) days of the arrest.

At the arraignment, the abuser can plead guilty and be sentenced or can plead not guilty and request a trial. If a trial date is set, you will be subpoenaed to appear as a witness at the trial.

If convicted, your abuser will be sentenced to anything from probation to counseling to jail.

**F. Changing Your TRO:** to change a TRO / Protective Order for any reason, you need to go back to court and ask the Judge to "amend" it. Call Legal Aid Society of Hawaii for more information.

**G. Other Actions You Can Take to Protect Yourself**

- 1) **Change Your Name.** The Lieutenant Governor's office is the office in charge of name changes. Changing a name takes about 6-8 weeks, but can take longer if there are mistakes on your forms. There is a \$50.00 Non-Refundable Filing Fee.

If you are a domestic violence victim or if publishing the name change would endanger you in any way, publication can be waived by getting an affidavit issued by a state prosecuting attorney. Contact the Department of Prosecuting Attorney on Kauai for more information.

Office of the Lt. Governor  
P.O. Box 3226  
Honolulu, HI 96801  
(808) 586-0255 or 1-800-442-8683

- 2) **Change Your Social Security Number.** You will need to apply in person at your local Social Security Administration office.
- Bring evidence of your age, identity, and U.S. citizenship or lawful alien status.
  - If you have changed your name, bring records identifying you by both your old and new name.
  - If you are requesting a new Social Security number for your children, be sure to bring records showing that you have custody of them.

- You will need to bring documents or reports showing abuse. The best evidence comes from police reports, hospitals, doctors, TRO, Protective Order, letters from shelters, and letters from those who know about the domestic violence.
- Once you have a new Social Security number, be careful about sharing it unnecessarily with strangers or people who may not need it to provide you with a benefit or service.

### Useful Names and Numbers

**YWCA**  
3094 Elua St  
Lihue, HI 96766-1209  
Ph. (808) 245-5959  
Fax (808) 245-5961

**National Domestic Violence Hotline**  
Ph. 1-800-799-SAFE

**Domestic Violence Action Center**  
Ph. 1-800-690-6200

**YWCA Shelter**  
Ph. (808) 245-6362

**Volunteer Legal Services**  
1-800-839-5200

**Child Protective Services**  
Ph. (808) 274-3300 or 822-5988

**Legal Aid Society of Hawaii**  
**3016 Umi Street, Ste. 220**  
**Lihue, HI 96766**  
**Intake Hotline: 245-7580**

#### What is the Victim/Witness Program at the Office of the Prosecuting Attorney?

The program provides the following services: information about your case, explaining the judicial process, referral to community agencies, crisis and short term counseling, help with obtaining witness fees, assistance with Crime Victim Compensation, employer mediation, restitution request assistance, help with the Victim Impact Statement, property return assistance, court accompaniment, and assistance in requesting notification of the abuser's release.

This program was designed to help and answer your questions.

**3990 Kaana Street, Suite 210, Lihue, HI 96766**  
**Ph. (808) 241-1888 / Fax (808) 241-1758**



This brochure was created through the AmeriCorps Access to Justice Project at the Legal Aid Society of Hawaii.