

- 1 (d) The chief of police of the county in which the
- 2 subpoena is to be served or a duly authorized
- 3 subordinate of the chief of police; or
- 4 (e) Any person who is not a party to the action and is not
- 5 less than eighteen years of age.

6 **§ -3 Service of writs and court orders.** Writs of
 7 execution, writs of replevin, writs of possession, writs of
 8 attachments, and all other civil court orders may be served by:

- 9 (a) A civil court officer anywhere in the State; or
- 10 (b) A private investigator, licensed under chapter 463,
- 11 anywhere in the State.

12 **§ -4 Private process server.** (a) Any natural person
 13 who serves process within this State more than ten times during
 14 a single calendar year, for specific compensation or in
 15 expectation of specific compensation, where the compensation is
 16 directly attributable to the service of process, shall comply
 17 with the requirements of subsection (b) and shall file and
 18 maintain a verified certificate of registration as a process
 19 server with the office of civil process commission. Any
 20 corporation or partnership that derives or expects to derive
 21 compensation from service of process within this State shall

1 also file and maintain a verified certificate of registration as
2 a process server with the office of civil process commission.

3 (b) Any natural person subject to the requirements of
4 subsection (a) shall:

- 5 (1) Be a United States citizen;
- 6 (2) Possess a high school diploma or equivalent;
- 7 (3) Be at least twenty-one years of age;
- 8 (4) Possess a valid driver's license;
- 9 (5) Be free of any felony convictions;
- 10 (6) Demonstrate knowledge and application of the Hawaii
11 rules of civil procedure by successful completion of a
12 twenty-five question examination administered by the
13 office of civil process commission; and
- 14 (7) Pay an annual registration fee of one hundred dollars
15 and register with the office of civil process
16 commission.

17 All persons that meet the requirements of this subsection shall
18 be issued a certificate of registration and a "PRIVATE PROCESS
19 SERVER" photographic identification card by the office of civil
20 process commission.



1 (c) This section shall not apply to:

2 (1) Any public safety officer, police officer, or
3 government employee acting within the course and scope
4 of employment of the public safety officer, police
5 officer, or government employee;

6 (2) An attorney or the attorney's employees;

7 (3) Any person who is specially appointed by a court to
8 serve its process; or

9 (4) A private investigator, licensed under chapter 463, or
10 the licensed private investigator's employees.

11 **§ -5 Civil court officers.** (a) All persons who were
12 certified civil deputies with the department of public safety,
13 civil branch, and were listed with the judiciary as civil
14 deputies as of November 1, 2001, shall be recognized as, and be
15 called civil court officers. All persons recognized as civil
16 court officers under this subsection shall register with the
17 office of civil process commission and shall pay an annual
18 registration fee of one hundred dollars.

19 (b) Any natural person who qualifies as a private process
20 server pursuant to section -4 shall be recognized as a civil
21 court officer if the person:



- 1 (1) Possesses knowledge of state law relating to service
2 of process, writ of execution, writs of possession and
3 exempt property, writs of replevin, and writs of
4 attachment;
- 5 (2) Serves as apprentice with a professional enforcement
6 process server for a period to be determined by the
7 professional enforcement process server. The
8 professional enforcement process server shall be
9 liable for the apprentice's actions during
10 apprenticeship and after the apprentice is certified
11 as a professional enforcement process server; and
- 12 (3) Successfully completes a written examination once the
13 professional enforcement process server determines
14 that the person is ready to sit for the examination.
- 15 (c) All persons that meet the requirements of this section
16 shall be issued a certificate of registration and a "CIVIL COURT
17 OFFICER" badge and photographic identification card by the
18 office of civil process commission.

19 **§ -6 Office of civil process commission.** (a) The
20 office of civil process commission shall be comprised of an
21 administrator, a clerk, and an investigator. The commission
22 shall have three commissioners, one appointed by the board of



1 directors of the Hawaii state bar association, one appointed by
2 the chief justice of the supreme court of Hawaii, and one
3 appointed by the board of directors of the Hawaii deputy
4 sheriff's association.

5 (b) The office of civil process commission shall:

6 (1) Administer the registration process for private
7 process servers and civil court officers, collect
8 fees, and administer written examinations;

9 (2) Investigate all notarized complaints and provide
10 verification information to the commissioners; and

11 (3) Meet monthly to review operations, conduct hearings on
12 complaints, as necessary, and enforce the standards of
13 conduct established by section -7 by suspension or
14 revocation of registrations issued the commission to
15 private process servers.

16 (c) Monthly reports for operations and collection of fees
17 shall be made to the commission by those who serve process for a
18 fee.

19 (d) A one dollar surcharge shall be assessed for each
20 civil document filed in circuit and district courts. The
21 judiciary shall collect the surcharge at the time of filing and
22 shall forward the funds collected to the office of civil process



1 commission within thirty days after the end of each calendar
2 quarter.

3 **§ -7 Private process servers; standards of conduct.** The
4 standards of conduct set forth in this section establish minimum
5 standards for performance by private process servers, ensure
6 that service of process is conducted in a professional manner,
7 and shall apply to all private process servers registered
8 pursuant to this chapter:

9 (1) Standard 1: Applicable laws and rules. The private
10 process server shall perform all services and discharge all
11 obligations in accordance with current state and federal laws,
12 the Hawaii rules of civil procedure, and the administrative
13 rules and orders of the office of civil process commission
14 governing the certification and registration of private process
15 servers.

16 (A) The private process server agrees to comply with all
17 necessary Hawaii certification requirements, bonds,
18 business licenses, permits, and other requirements
19 mandated by the State and the county in which the
20 private process server conducts business; and

21 (B) The private process server shall promptly file an
22 affidavit of service or return any unserved documents;



- 1 (2) Standard 2: Skills and Knowledge. The private
2 process server shall demonstrate the skills and knowledge
3 necessary to perform the work of a private process server and
4 shall seek training opportunities to maintain skills and
5 knowledge and to grow professionally.
- 6 (A) The private process server has an obligation to have
7 knowledge and keep informed of all current and
8 applicable laws regarding the service of process;
- 9 (B) The private process server has a responsibility to
10 maintain a working knowledge of proper manners of
11 service;
- 12 (C) The private process server shall possess the verbal
13 and written communication skills necessary to perform
14 the private process server role, including an aptitude
15 for communicating in person, by telephone, and by
16 completion of appropriate affidavits;
- 17 (D) The private process server shall keep the client
18 reasonably informed about the status of service and
19 promptly comply with reasonable requests; and
- 20 (E) The private process server shall prepare affidavits
21 that are clear, accurate, and complete;



1 (3) Standard 3: Professionalism. The private process
2 server shall exercise the highest degree of professionalism in
3 all interactions with clients, the party to be served, and
4 others with whom they come in contact during the service. This
5 includes the ability to be discreet in dealing with confidential
6 information.

7 (A) The private process server shall maintain required
8 records in a professional manner;

9 (B) The private process server shall not provide or offer
10 to provide legal advice;

11 (C) The private process server shall not violate any rules
12 adopted by the supreme court of Hawaii or engage in
13 conduct that would reflect adversely on the judiciary
14 or other agencies integral to the administration of
15 justice;

16 (D) The private process server shall preserve the client's
17 confidences and this duty shall persist even after the
18 service of process is completed;

19 (E) The private process server shall maintain a neat and
20 clean appearance at all times and shall be responsible
21 for the appearance of the private process server's
22 employees and agents;

1 (F) The private process server shall neither be rude nor
2 use profanity or vulgarity in the performance of the
3 private process server's professional duties;

4 (G) The private process server shall handle all legal
5 documents with care. Food and beverage stains, dirty
6 fingerprints, and torn documents denote carelessness
7 and disregard for the importance of those legal
8 documents; and

9 (H) The private process server shall never make decisions
10 or representations regarding the merits of a lawsuit
11 and shall only explain the general nature of the
12 papers being served; and

13 (4) Standard 4: Ethics. The private process server shall
14 perform services in a manner consistent with legal and ethical
15 standards.

16 (A) The private process server shall serve process in a
17 professional manner and avoid rudeness and
18 unprofessional conduct;

19 (B) Services shall be provided in a non-judgmental manner;

20 (C) The private process server shall avoid misrepresenting
21 the private process server's qualifications, fees, or
22 any other information relating to the process server;

1 (D) The private process server shall avoid utilizing the
2 private process server's position in any manner to
3 gain access to information or services for purposes
4 other than those of the service of process; and

5 (E) The private process server shall maintain the best
6 interest of the client at all times and report to the
7 client the full facts, whether they are advantageous
8 or detrimental to the client."

9 SECTION 2. This Act shall take effect on January 1, 2050.

10



Report Title:

Process Servers

Description:

Establishes who may serve civil process, standards and procedures for registering civil process servers, and an office of civil service process commission to regulate civil process servers. (HB1656 HD1)

