

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 951  
H.D. 1  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 951, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE SERVICE OF PROCESS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Director of Public Safety to maintain a list of independent civil process servers; and
- (2) Update various sections of the Hawaii Revised Statutes to clarify that law enforcement officers and independent civil process servers may serve certain types of legal process.

Your Committee received testimony in support of this measure from the Judiciary, Department of Public Safety, Collection Law Section of the Hawaii State Bar Association, and one individual. Your Committee received comments on this measure from the Department of the Attorney General and one individual.

Your Committee finds that there have been difficulties in identifying private process servers and obtaining their services in Hawaii. The unavailability of those services has resulted in an increased reliance on Deputy Sheriffs, who are already understaffed, to issue service of process, which causes delays for serving process.



The Collection Law Section of the Hawaii State Bar Association testified that the Department of Public Safety stopped maintaining a list of authorized private process servers due to a misinterpretation by the Department of Public Safety of Act 142, Session Laws of Hawaii 2012 (Act 142), which allows individuals authorized by the rules of the court to serve various types of civil process. As a result of Act 142, the Department testified that it stopped providing lists of eligible process servers. The Collection Law Section testified that the Department's interpretation of Act 142 has caused significant problems and confusion for the courts, attorneys, parties to lawsuits, previously listed authorized private process servers, and the general public. Therefore, your Committee further finds that, in the interest of efficiency and fairness, the Director of Public Safety should make a list of eligible process servers in the State available to the public as soon as possible. Your Committee strongly urges the Department to make the list of eligible process servers in the State available no later than thirty days after the effective date of this measure if this measure becomes law.

Your Committee has amended this measure by:

- (1) Adopting the amendments suggested by the Department of the Attorney General and Collection Law Section of the Hawaii State Bar Association to make further conforming amendments to sections 3, 4, 7, 9, 10, 12, 14, and 18 to specifically clarify that:
  - (A) The sheriff, sheriff's deputy, police officer, or independent civil process servers may serve certain types of legal process; and
  - (B) The sheriff, sheriff's deputy, or police officer may seize certain property;
- (2) Adopting the language suggested by the Department of the Attorney General to clarify that the maintenance of the list of civil independent process servers shall not create a private cause of action against the Department of Public Safety, the State, and the agencies, officers, and employees of the Department or the State;
- (3) Adopting the language suggested by the Judiciary and Collection Law Section of the Hawaii State Bar



Association to reinstate the existing language under section 634-22, Hawaii Revised Statutes, relating to requiring a person specially appointed by the court to make an affidavit as a proof of service because this requirement has been long-standing in the law and court rules; and

- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 951, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 951, H.D. 1, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,



CLAYTON HEE, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:
HB 951, HD1, SD1	PSM, JDL	3/22/13
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended <span style="margin-left: 100px;"><input checked="" type="checkbox"/> Pass, with amendments</span> <span style="margin-left: 100px;"><input type="checkbox"/> Hold</span> <span style="margin-left: 100px;"><input type="checkbox"/> Recommit</span>		
<span style="margin-left: 40px;">2312</span> <span style="margin-left: 120px;">2311</span> <span style="margin-left: 120px;">2310</span> <span style="margin-left: 120px;">2313</span>		
Members	Aye	Aye (WR)
Nay	Excused	
HEE, Clayton (C)	✓	
SHIMABUKURO, Maile S.L. (VC)	✓	
GABBARD, Mike	✓	
IHARA, Jr., Les	✓	
SLOM, Sam	✓	
<b>TOTAL</b>	<b>5</b>	
Recommendation: <input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>		
Chair's or Designee's Signature:		
<b>Distribution:</b>		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
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\*Only one measure per Record of Votes