

JAN 20 2017

A BILL FOR AN ACT

RELATING TO SERVICE OF PROCESS.

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

1 SECTION 1. Section 571-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-23 Summons; notice; custody of minor.** (a) After a
4 petition under section 571-11(1) or (2) is filed in the interest
5 of a minor, and after such investigation as the court may
6 direct, the court shall issue a summons, unless the parties
7 hereinafter named promise in writing to appear voluntarily,
8 requiring the person or persons who have the custody or control
9 of the minor to appear personally and bring the minor before the
10 court at a time and place stated. If the person so summoned is
11 not the parent or guardian of the minor, then the parent or
12 guardian or both shall also be notified, by personal service
13 before the hearing except as herein provided, of the pendency of
14 the case and of the time and place appointed. Summons may be
15 issued requiring the appearance of any other person whose
16 presence, in the opinion of the judge, is necessary. If it
17 appears that the minor is in such condition or surroundings that



1 the minor's welfare requires taking the minor into custody, the
2 judge may order, by endorsement upon the summons, or otherwise,
3 that the person serving the summons shall take the minor into
4 custody at once. A parent or guardian is entitled to the
5 issuance of compulsory process for the attendance of witnesses
6 on the parent's or guardian's own behalf or on behalf of the
7 minor.

8 (b) Service of summons shall be made personally by the
9 delivery of a copy thereof, together with a copy of the
10 petition, to the person summoned, except that if the judge is
11 satisfied that personal service of the summons or the notice
12 provided for in the preceding paragraph is impracticable, the
13 judge may order service by certified or registered mail
14 addressed to the last known address, or by publication, or both.
15 Service effected not less than forty-eight hours before the time
16 fixed in the summons for the return thereof shall be sufficient
17 to confer jurisdiction, provided that jurisdiction shall be
18 conferred if any person who might be so summoned appears
19 voluntarily at the time and place appointed and waives such
20 service and such notice.



1 (c) If it appears that the person to be summoned has
2 refused to accept service by registered or certified mail or is
3 concealing oneself or evading service, or the court does not
4 know the address or residence of the respondent and has not been
5 able to ascertain the same after reasonable and due inquiry and
6 search, the court may authorize service of summons and the time
7 and date of appearance by publication or by any other manner
8 that is reasonably calculated to give the party actual notice of
9 proceedings and an opportunity to be heard, including the
10 following:

11 (1) When publication is authorized, the summons shall be
12 published once a week for four consecutive weeks in a
13 publication of general circulation in the circuit.
14 The publication of general circulation shall be
15 designated by the court in the order for publication
16 of the summons. Notice by publication shall have the
17 same force and effect as such person having been
18 personally served with the summons; provided that the
19 date of the last publication shall be set not less
20 than twenty-one days prior to the return date stated
21 in the summons; or



1 (2) Via electronic means, such as electronic mail or
2 posting to a social networking account or online
3 publication website.

4 (d) Service of summons, process, or notice required by
5 this chapter may be made by any suitable person under the
6 direction of the court and upon request of the court shall be
7 made by any police officer. The judge may authorize the payment
8 of necessary travel expenses incurred by persons summoned or
9 otherwise required to appear at the hearing of a case coming
10 within the purview of this chapter. Section 621-7 shall apply
11 to persons summoned under this section other than a parent,
12 guardian, or other legal custodian of the child concerned."

13 SECTION 2. Section 576E-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§576E-4 Service.** (a) In any proceeding to establish a
16 child support order, in cases where the agency is not yet
17 enforcing an order of support for the subject child, service of
18 the notice provided in section 576E-5 shall be by personal
19 service or certified mail, return receipt requested. In the
20 case where the person to be served cannot be found, service
21 shall be completed by leaving copies of the notice at the



1 person's usual place of residence with some person of suitable
2 age and discretion residing at that location. After initial
3 service is effected, additional service upon a party shall be
4 satisfied by regular mail to the party's last known address.

5 (b) Service of the notice of hearing pursuant to the
6 request for hearing under section 576E-6 of a party shall be
7 satisfied by regular mail to the party's address provided with
8 the request for hearing, or if not provided, to the party's last
9 known address.

10 (c) In any proceeding under this chapter, if the person to
11 be served has no known address, the court may authorize notice
12 of the proceeding and the time and date of hearing by
13 publication or by any other manner that is reasonably calculated
14 to give the party actual notice of proceedings and an
15 opportunity to be heard, including the following:

16 (1) When publication is authorized, the summons shall be
17 published once a week for four consecutive weeks in a
18 publication of general circulation in the circuit.
19 The publication of general circulation shall be
20 designated by the court in the order for publication
21 of the summons. Notice by publication shall have the



1 same force and effect as such person having been
2 personally served with the summons; provided that the
3 date of the last publication shall be set not less
4 than twenty-one days prior to the return date stated
5 in the summons; or

6 (2) Via electronic means, such as electronic mail or
7 posting to a social networking account or online
8 publication website.

9 Nothing in this subsection shall limit the rights of
10 impoverished persons under section 601-13.

11 [~~e~~] (d) In any child support enforcement proceeding
12 subsequent to an order already being enforced by the agency,
13 upon a showing that diligent effort has been made to ascertain
14 the location of a party, notice and service of process shall be
15 presumed to be satisfied upon delivery of written notice to the
16 most recent residential or employer address on file with the
17 state case registry pursuant to section 571-52.6."

18 SECTION 3. Section 580-3, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) If it appears that the defendant has refused to
21 accept service by mail, or is concealing oneself, or evading



1 service, or that plaintiff does not know the address or
2 residence of the defendant and has not been able to ascertain
3 the same after reasonable and due inquiry and search [~~for at~~
4 ~~least fifteen days either before or after the filing of the~~
5 ~~complaint~~], the court may authorize notice of the pendency of
6 the action and of a time and place of hearing[, ~~which shall not~~
7 ~~be less than twenty days after the last publication of the~~
8 ~~published notice, to be given to the defendant by publication~~
9 ~~thereof at least once in each of three successive weeks in a~~
10 ~~newspaper suitable for the advertisement of notices of judicial~~
11 ~~proceedings, published in the State, and the case may be heard~~
12 ~~and determined at or after the time specified in the notice.] by
13 publication or by any other manner that is reasonably calculated
14 to give the defendant actual notice of proceedings and an
15 opportunity to be heard, including the following:~~

- 16 (1) When publication is authorized, the summons shall be
17 published once a week for four consecutive weeks in a
18 publication of general circulation in the circuit.
19 The publication of general circulation shall be
20 designated by the court in the order for publication
21 of the summons. Notice by publication shall have the



1 same force and effect as such person having been
2 personally served with the summons; provided that the
3 date of the last publication shall be set not less
4 than twenty-one days prior to the return date stated
5 in the summons; or
6 (2) Via electronic means, such as electronic mail or
7 posting to a social networking account or online
8 publication website.

9 Nothing in this subsection shall limit the rights of
10 impoverished persons under subsection (e) and section 601-13."

11 SECTION 4. Section 583A-108, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Notice required for the exercise of jurisdiction when
14 a person is outside this State may be given in a manner
15 prescribed by the law of this State for service of process or by
16 the law of the state in which the service is made. Notice must
17 be given in a manner reasonably calculated to give actual notice
18 but may be by publication, by posting to an online publication
19 website, by electronic mail or posting to a social networking
20 account, or by posting to a public bulletin board if other means
21 are not effective[-]; provided that:



1 (1) When publication is authorized, the summons shall be
2 published once a week for four consecutive weeks in a
3 publication of general circulation in the circuit or
4 area in which the person is reasonably likely to
5 reside. The publication of general circulation shall
6 be designated by the court in the order for
7 publication of the summons. Notice by publication
8 shall have the same force and effect as such person
9 having been personally served with the summons;
10 provided that the date of the last publication shall
11 be set not less than twenty-one days prior to the
12 return date stated in the summons; or

13 (2) Via electronic means, such as electronic mail or
14 posting to a social networking account or online
15 publication website.

16 Nothing in this subsection shall limit the rights of
17 impoverished persons under section 601-13."

18 SECTION 5. Section 583A-309, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§583A-309[+] **Service of petition and order.** Except as
21 otherwise provided in section 583A-311, the petition and order



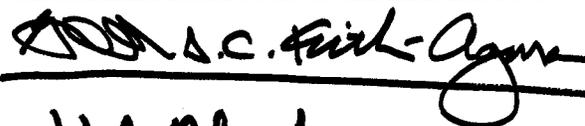
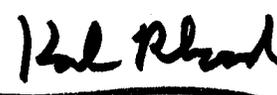
1 must be served, by any method authorized by the law of this
 2 State, upon respondent and any person who has physical custody
 3 of the child. If other methods of service are not effective,
 4 the court may authorize service by publication, by posting to an
 5 online publication website, by electronic mail or posting to a
 6 social networking account, or by posting to a public bulletin
 7 board, as provided in section 583A-108(a). Nothing in this
 8 section shall limit the rights of impoverished persons under
 9 section 601-13."

10 SECTION 6. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:


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S.B. NO. 645

Report Title:

Service of Process; Notice; Family Courts

Description:

Amends sections of title 31, Hawaii Revised Statutes, including the Administrative Process for Child Support Enforcement and the Uniform Child-Custody Jurisdiction and Enforcement Act, to allow for service by publication or by any other manner that is reasonably calculated to give the party actual notice of proceedings and an opportunity to be heard when respondents cannot be located or personally served in all family court proceedings.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

