

JAN 22 2021

A BILL FOR AN ACT

RELATING TO SERVICE OF PROCESS.

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

1 SECTION 1. Chapter 353C, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§353C- Service of process; list. (a) For service of
5 process, the director shall maintain a list of independent civil
6 process servers to process:

7 (1) Orders to show cause pursuant to chapters 603, 604,
8 and 633;

9 (2) Garnishment pursuant to chapter 652;

10 (3) Writs of replevin and attachment pursuant to chapter
11 634;

12 (4) Writs of possession pursuant to chapters 501 and 666;

13 (5) Orders for examination pursuant to chapter 636; and

14 (6) Writs of attachment or execution pursuant to chapter
15 651.



1 (b) Any independent civil process server may submit the
2 server's name to the director to be placed on the list; provided
3 that a person shall not be placed on the list if the person:

- 4 (1) Is serving a criminal sentence;
5 (2) Has been convicted of a crime within the previous ten
6 years;
7 (3) Is required to register as a sex offender;
8 (4) Is subject to any other legal restriction, including a
9 temporary restraining order, that prevents the person
10 from serving process; or
11 (5) Cannot provide a copy of a current State of Hawaii
12 general excise tax license.

13 (c) The department, the State, and the agencies, officers,
14 and employees of the department or the State shall not be
15 responsible or liable for the actions of any independent civil
16 process servers on the list. The maintenance of the list shall
17 not create a private cause of action against the department, the
18 State, or the agencies, officers, and employees of the
19 department or the State.



1 (d) Placement of a person's name on the list shall not
2 make the person a law enforcement officer, sheriff or deputy
3 sheriff, or an employee or agent of the State."

4 SECTION 2. Section 501-154, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§501-154 Writ of possession, service, time limit for**
7 **registration.** When in any action in the nature of an action of
8 ejectment an execution or writ of possession has been issued and
9 served by the [~~officer,~~] sheriff, deputy sheriff, police
10 officer, or independent civil process server from the department
11 of public safety's list under section 353C- , the [~~officer~~]
12 sheriff, deputy sheriff, police officer, or independent civil
13 process server shall cause a copy of the writ, with a return of
14 the [~~officer's~~] doings of the sheriff, deputy sheriff, police
15 officer, or independent civil process server thereon, to be
16 filed and registered within three months after the service and
17 before the return of the writ into the clerk's office. The
18 plaintiff, in case the judgment was that the plaintiff was
19 entitled to an estate in fee simple in the demanded premises, or
20 in any part thereof, and for which execution or writ of



1 possession issued, is thereupon entitled to the entry of a new
2 certificate of title."

3 SECTION 3. Section 603-29, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§603-29 Order to show cause.** Whenever a complaint has
6 been filed in circuit court alleging leased or rented personal
7 property the value of which is \$5,000 or more, has been retained
8 by the defendant fourteen days after the termination of the
9 lease or rental contract, either by passage of time or by reason
10 of any default under the terms and conditions of the lease or
11 rental contract, the plaintiff may petition the court for an
12 order to show cause.

13 Upon the filing of the petition with a copy of the lease or
14 rental contract and an affidavit sworn to by the plaintiff or
15 some competent affiant setting forth a statement of facts
16 sufficient to show the termination of the lease or rental
17 contract, the court may issue an order directing the defendant
18 to either return the leased or rented personal property to the
19 plaintiff or to appear and show cause for the possession at such
20 time as the court shall direct but not later than ten days from
21 the date of service of the order to show cause. The order to



1 show cause shall also provide that if the leased or rented
2 personal property is not returned to the plaintiff prior to the
3 hearing, the defendant shall, if reasonably feasible, produce
4 the property at the hearing. If, at the hearing, it is proved
5 to the satisfaction of the court that the plaintiff is entitled
6 to possession of the leased or rented personal property, it
7 shall issue an order directed to the sheriff, deputy sheriff,
8 ~~[or person authorized by the rules of court,]~~ police officer, or
9 independent civil process server from the department of public
10 safety's list under section 353C- commanding the sheriff,
11 deputy sheriff, ~~[or other person authorized by the rules of~~
12 ~~court]~~ police officer, or independent civil process server to
13 seize the personal property therein described and to deliver the
14 same to the plaintiff or the plaintiff's agent. Service of the
15 order to show cause shall be as provided by law or rule of court
16 for cases in the circuit courts, or by registered mail or by
17 certified mail with return receipt showing delivery within the
18 circuit."

19 SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§604-6.2 Order to show cause.** Upon the filing of a
2 complaint with a copy of a lease or rental contract and an
3 affidavit sworn to by the plaintiff or some competent affiant
4 setting forth a statement of facts sufficient to show that the
5 leased or rented personal property has been in the defendant's
6 possession at least fourteen days after the termination of the
7 lease or rental contract, either by passage of time or by reason
8 of any default under the terms and conditions of the lease or
9 rental contract, the court may issue an order directing the
10 defendant to either return the leased or rented personal
11 property to the plaintiff or to appear and show cause for the
12 possession at such time as the court shall direct, but not later
13 than ten days from the date of service of the order to show
14 cause. The order to show cause shall also provide that, if the
15 leased or rented personal property is not returned to the
16 plaintiff prior to the hearing, the defendant shall, if
17 reasonably feasible, produce the property at the hearing. If,
18 at the hearing, it is proved to the satisfaction of the court
19 that the plaintiff is entitled to possession of the leased or
20 rented personal property, it shall issue an order directed to
21 the sheriff, deputy sheriff, [~~or other person authorized by the~~



1 ~~rules of court]~~ police officer, or independent civil process
2 server from the department of public safety's list under section
3 353C- commanding the sheriff, deputy sheriff, [~~or a person~~
4 ~~authorized by the rules of court]~~ police officer, or independent
5 civil process server to seize the personal property therein
6 described and to deliver the same to the plaintiff or the
7 plaintiff's agent. Service of the order to show cause shall be
8 as provided by law or rule of court for cases in the district
9 courts, or by registered mail or by certified mail with return
10 receipt showing delivery within the State."

11 SECTION 5. Section 607-4, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) Fees of sheriff, deputy sheriff, police officer, or
14 [~~other person authorized by the rules of court:~~] independent
15 civil process server from the department of public safety's list
16 under section 353C- shall be as provided under section 607-
17 8(a)."

18 SECTION 6. Section 607-8, Hawaii Revised Statutes, is
19 amended by amending its title and subsection (a) to read as
20 follows:



1 "§607-8 Fees of sheriff, deputy sheriff, police officer,
2 serving or levying officer, or [other person authorized by the
3 rules of court in circuit court, intermediate appellate court,
4 or supreme court.] independent civil process server. (a) For
5 all necessary travel in making the service, per mile for every
6 mile more than one... 60 cents provided that:

7 (1) No allowance shall be made where the serving
8 individual uses a conveyance furnished the serving
9 individual by the State, or any political or municipal
10 subdivision thereof;

11 (2) Where the serving individual serves more than one
12 person in the course of one trip, the serving
13 individual shall not charge, in the aggregate for all
14 services more than the mileage for the entire trip;
15 and

16 (3) As far as practicable, in order to minimize the
17 mileage fees for the service, the sheriff or [other]
18 chief of police of the serving police officers, or
19 ~~[other persons authorized by the rules of court where~~
20 ~~service of process is to be made upon an island other~~
21 ~~than that upon which is situated the court ordering~~



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1 ~~the process,~~ independent civil process server from
2 the department of public safety's list under section
3 353C- shall cause the process to be transmitted to
4 the sheriff, deputy sheriff, the chief of police,
5 ~~[other person authorized by the rules of court, or~~
6 ~~other serving individual]~~ a police officer, or an
7 independent civil process server upon the island of
8 service who shall make the service upon receipt of the
9 process; and the service shall be valid,
10 notwithstanding that the process may not be addressed
11 to the individual actually making the service or to
12 the individual's superior.

13 For serving criminal summons or any other criminal process
14 except a subpoena, for each person served
15 therewith..... \$30 effective July 1, 2001.
16 Service of criminal summons or any other criminal process shall
17 be made only by persons authorized to serve criminal summons [~~in~~
18 ~~accordance with rules of court~~].

19 For serving civil summons, subpoena, subpoena duces
20 tecum, or any other civil process, except a garnishee



1 summons, for each person served

2 therewith..... \$43 effective July 1, 2015.

3 For serving: garnishee summons, for each

4 person..... \$30 effective July 1, 2015.

5 For returning as unserved after due and diligent search any

6 process when it has been found that the person to be served has

7 left the State \$10 effective July 1, 2015.

8 For serving any execution or other process for the

9 collection of money, for every dollar collected up to

10 \$10,000..... 5 cents.

11 And for every dollar over \$10,000 ... 2-1/2 cents.

12 All fees paid to any printer for publishing an

13 advertisement of the sale of any property.

14 For every bill of sale..... \$4.

15 For executing and acknowledging a deed pursuant to a

16 sale of real estate to be paid by the grantee in the

17 deed..... \$10.

18 For drawing any bond required by law..... \$4.

19 For serving writ of possession or restitution,

20 putting any person entitled into the possession of



1 premises, and removing a tenant pursuant to order of
2 court..... \$40.

3 Together with all necessary expenses incurred by the
4 individual serving the writ, incident to the eviction.

5 For selling any property on an order from the court other
6 than an execution, the same allowance as for service and sales
7 by execution.

8 The fees for service of executions, attachments, and
9 collection of judgments, together with all costs incurred after
10 judgment rendered, not included in the judgment, in all courts
11 of the State, shall be collected in addition to the sum directed
12 to be levied and collected in the writ.

13 In lieu of any fee under this subsection, the fee may be an
14 hourly rate of not less than \$50 per hour agreed upon in advance
15 between the party requesting the service and the sheriff, deputy
16 sheriff, police officer, or ~~[other person authorized by rules of~~
17 ~~the court]~~ independent civil process server performing the
18 service."

19 SECTION 7. Section 633-8, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§633-8 Order to show cause.** Upon the filing of a
2 complaint with a copy of a lease or rental contract and an
3 affidavit sworn to by the plaintiff or some competent affiant
4 setting forth a statement of facts sufficient to show that the
5 leased or rented personal property has been in the defendant's
6 possession at least fourteen days after the termination of the
7 lease or rental contract, either by passage of time or by reason
8 of any default under the terms and conditions of the lease or
9 rental contract, the court may issue an order directing the
10 defendant to either return the leased or rented personal
11 property to the plaintiff or to appear and show cause for the
12 possession at such time as the court shall direct, but not later
13 than five days from the date of service of the order to show
14 cause. The order to show cause shall also provide that, if the
15 leased or rented personal property is not returned to the
16 plaintiff prior to the hearing, the defendant shall, if
17 reasonably feasible, produce the property at the hearing. If,
18 at the hearing, it is proved to the satisfaction of the court
19 that the plaintiff is entitled to possession of the leased or
20 rented personal property, it shall issue an order directed to
21 the sheriff, deputy sheriff, ~~[or other person authorized by the~~



1 ~~rules of court]~~ police officer, or independent civil process
2 server from the department of public safety's list under section
3 353C-___ commanding the sheriff, deputy sheriff, [~~or other~~
4 ~~person authorized by the rules of court]~~ police officer, or
5 independent civil process server to seize the personal property
6 therein described and to deliver the same to the plaintiff or
7 the plaintiff's agent. Service of the order to show cause shall
8 be as provided by law or rule of court for cases in the district
9 courts, or by registered mail or by certified mail with return
10 receipt showing delivery within the circuit."

11 SECTION 8. Section 634-11, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§634-11 Interpleader; application for order by sheriff**
14 ~~**[or other person authorized by the rules of court.], deputy**~~
15 **sheriff, police officer, or independent civil process server.**

16 When, in the execution of process against goods and chattels
17 issued by or under the authority of the courts of the State, by
18 reason of claims made to such goods and chattels by assignees of
19 bankrupts and other persons not being the parties against whom
20 such process had issued, whereby the sheriff, deputy sheriffs,
21 [~~other~~] police officers, or [~~persons authorized by the rules of~~



1 ~~court]~~ independent civil process servers from the department of
2 public safety's list under section 353C- are exposed to the
3 hazard and expense of actions, any such claim shall be made to
4 any goods or chattels taken or intended to be taken in execution
5 under any such process or to the proceeds or value thereof, it
6 shall be lawful for the court, out of which the execution shall
7 have issued, or any judge thereof, upon application of the
8 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
9 ~~person authorized by the rules of court,~~] independent civil
10 process server made before or after the return of such process,
11 and as well before as after any action brought against the
12 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
13 ~~person authorized by the rules of court,~~] independent civil
14 process server to call before it or the judge by rule, order, or
15 summons, as well the party issuing such process as the party
16 making the claim. Thereupon the court or judge shall, for the
17 adjustment of the claims and the relief and protection of the
18 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
19 ~~person authorized by the rules of court,~~] independent civil
20 process server, make such rules, orders, and decisions as shall
21 appear to be just according to the circumstances of the case.



1 The costs of all such proceedings shall be in the discretion of
2 the court or judge."

3 SECTION 9. Section 634-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§634-12 Sale of property seized on execution, when.** When
6 goods or chattels have been seized in execution by the sheriff,
7 deputy sheriff, ~~[ether]~~ a police officer~~[, or other person~~
8 ~~authorized by the rules of court]~~, or an independent civil
9 process server from the department of public safety's list under
10 section 353C- under process of any court, and some third
11 person claims to be entitled under a bill of sale, chattel
12 mortgage, or otherwise, to the goods and chattels by way of
13 security for a debt, the court or a judge may order a sale of
14 the whole or part thereof, upon such terms as to the payment of
15 the whole or part of the secured debt or otherwise as it or the
16 judge shall think fit; and may direct the application of the
17 proceeds of sale in such manner and upon such terms as to the
18 court or judge may seem just."

19 SECTION 10. Section 634-22, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§634-22 Return.** In all cases where any process or order
2 of a court is served by any officer of the court or of the
3 police force or the sheriff, deputy sheriff, an independent
4 civil process server from the department of public safety's list
5 under section 353C- , or any investigator appointed and
6 commissioned by the director of commerce and consumer affairs
7 pursuant to section 26-9(j), a record thereof shall be endorsed
8 upon the back of the process, complaint, order, or citation.
9 The record shall state the name of the person served and the
10 time and place of service and shall be signed by the sheriff,
11 deputy sheriff, police officer, independent civil process
12 server, or investigator making the service. If the [~~officer~~]
13 sheriff, deputy sheriff, police officer, independent civil
14 service process server, or investigator fails to make service,
15 the [~~officer,~~] sheriff, deputy sheriff, police officer,
16 independent civil process server, or investigator in like
17 manner, shall endorse the reason for the [~~officer's~~] sheriff,
18 deputy sheriff, police officer, independent civil process
19 server, or investigator's failure and sign this record. When
20 service is made by a person specially appointed by the court, or
21 [~~a person authorized by the rules of court, the person~~] an



1 independent civil process server, that person shall make
2 declaration or affidavit of that service.

3 The record [~~or the~~], declaration, or affidavit shall be
4 prima facie evidence of all it contains, and no further proof
5 thereof shall be required unless either party desires to examine
6 the sheriff, deputy sheriff, police officer [~~or person~~],
7 independent civil process server, or investigator making
8 service, in which case the sheriff, deputy sheriff, police
9 officer [~~or person~~], independent civil process server, or
10 investigator shall be notified to appear for examination."

11 SECTION 11. Section 634-29, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§634-29 In case of attachment, etc., of real property.**
14 In all cases of attachment, sequestration, or injunction of real
15 property, the sheriff, deputy sheriff, police officer, or
16 independent civil process server from the department of public
17 safety's list under section 353C- serving the writ shall, in
18 addition to personal delivery of a copy thereof to the
19 defendant, post upon the premises a copy of the process, and a
20 notice of the day and hour when attached, sequestered, or
21 enjoined, and shall also give notice thereof in a newspaper or



1 newspapers suitable for the advertisement of judicial
2 proceedings. But in all cases where a writ of attachment is
3 issued in accordance with chapter 651 relating to attachments,
4 and the defendant in attachment was never a resident of the
5 State or has departed from the State or secretes oneself so that
6 the writ of attachment cannot be personally served upon the
7 defendant, personal service of the writ upon the defendant may
8 be dispensed with. All after-leases, mortgages, sales, devises,
9 assignments, trusts, or other conveyances of the property, until
10 the dissolution of the process, shall be void in law as against
11 the plaintiff in such cases."

12 SECTION 12. Section 651-1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§651-1 General provisions.** (a) This chapter shall apply
15 to circuit and district courts. A judge of any court of record
16 may make any order at chambers which may by the provisions of
17 this chapter be made by the court in term time. When the
18 proceedings are before a district judge, the judge shall be
19 regarded as the clerk of the court for all purposes contemplated
20 herein. The phrase "police officer", as used in this chapter,
21 means the director of public safety or the director's duly



1 authorized representative, any chief of police or subordinate
2 police officer, or [~~a person authorized by the rules of court.~~]
3 an independent civil process server on the list maintained by
4 the department of public safety pursuant to section 353C- .
5 Nothing in this chapter shall be construed to permit a district
6 judge to issue a writ of attachment to be served out of the
7 circuit in which the judge's court is situated, or to permit an
8 attachment of real estate, or any interest therein, under a writ
9 issued by a district court judge.

10 (b) The department of public safety, the State, and the
11 agencies, officers, and employees of the department of public
12 safety or the State shall not be responsible or liable for the
13 actions of any independent civil process servers on the list
14 maintained by the department of public safety pursuant to
15 section 353C- . The maintenance of the list pursuant to
16 section 353C- shall not create a private cause of action
17 against the department of public safety, the State, or the
18 agencies, officers, and employees of the department of public
19 safety or the State.

20 (c) Nothing in this chapter shall be construed to make an
21 independent civil process server a law enforcement officer,



1 sheriff, or deputy sheriff, or an employee or agent of the
2 department of public safety or the State."

3 SECTION 13. Section 652-1.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except as provided in subsection (e), any creditor
6 desiring to secure a garnishment process before judgment shall
7 attach the creditor's petition for process, summons, and
8 direction to the following documents:

- 9 (1) An application, directed to the court to which such
10 action is made returnable, for garnishee process to
11 issue under section 652-1(a);
- 12 (2) An affidavit sworn to by the creditor or some
13 competent affiant setting forth a statement of facts
14 sufficient to show that probable validity exists to
15 sustain the validity of the creditor's claim;
- 16 (3) An order that a hearing be held before the court or a
17 judge thereof to determine whether or not the
18 garnishee process should be granted and that notice of
19 such hearing be given to the defendant debtor; and
- 20 (4) A summons directed to [~~a proper officer~~] the sheriff,
21 deputy sheriff, a police officer, or an independent



1 civil process server from the department of public
2 safety's list under section 353C- commanding the
3 ~~[officer]~~ sheriff, deputy sheriff, police officer, or
4 independent civil process server to serve upon the
5 debtor at least four days prior to the date of the
6 hearing, pursuant to chapter 634, the application, a
7 true and attested copy of the petition, summons, and
8 direction, the affidavit, and the order and notice of
9 hearing."

10 SECTION 14. Section 652-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§652-2 Garnishee, rights, duties; collection by ~~[levying~~**
13 **~~officer.]~~ sheriff, deputy sheriff, police officer, or**
14 **independent civil process server.** The garnishee shall, when
15 summoned before judgment rendered against ~~[his]~~ the garnishee's
16 principal, if ~~[he]~~ the garnishee desires, be admitted to defend
17 ~~[his]~~ the garnishee's principal in the action.

18 If judgment is rendered in favor of the plaintiff, and
19 likewise in all cases in which the garnishee is summoned after
20 judgment, the garnishee fund, or such part thereof as may be
21 sufficient for that purpose, shall be liable to pay the same.



1 The plaintiff on praying out execution shall be entitled to have
2 included in the execution an order directing the [~~officer~~]
3 sheriff, deputy sheriff, police officer, or independent civil
4 process server from the department of public safety's list under
5 section 353C-___ serving the same to make demand of the
6 garnishee for the goods and effects of the defendant secured in
7 [~~his~~] the garnishee's hands, whose duty it will be to expose the
8 same to be taken on execution, and also to make demand of the
9 garnishee for the debt or wages secured in [~~his~~] the garnishee's
10 hands or the moneys held by [~~him~~] the garnishee for safekeeping,
11 or such part thereof as may satisfy the judgment. It shall be
12 the duty of the garnishee to pay the same. If the garnishee has
13 in any manner disposed of the goods and effects or does not
14 expose and subject the same to be taken on execution, or if the
15 garnishee does not pay to the [~~officer,~~] sheriff, deputy
16 sheriff, police officer, or independent civil process server
17 when demanded, the debt or wages or moneys held for safekeeping,
18 the garnishee shall be liable to satisfy the judgment out of
19 [~~his~~] the garnishee's own estate, as [~~his~~] the garnishee's own
20 proper debt, if the goods or effects or debt or wages or moneys
21 held for safekeeping, be of sufficient value or amount and, if



1 not, then to the value of the same; provided that every
2 garnishee, whether summoned before or after judgment, shall be
3 allowed to retain or deduct from the goods, effects, and credits
4 of the defendant in [~~his~~] the garnishee's hands at the time of
5 service all demands against the defendant of which [~~he~~] the
6 garnishee could have availed [~~himself~~] the garnishee's self if
7 [~~he~~] the garnishee had not been [~~garnisheed,~~] garnished, whether
8 the same are at the time due or not, and whether by setoff on a
9 trial or by setoff of judgments or executions between [~~himself~~]
10 the garnishee and the defendant, and shall be liable only for
11 the balance after adjustment of all mutual demands between
12 [~~himself~~] the garnishee and the defendant; provided that in such
13 adjustment no demands for unliquidated damages for wrongs or
14 injuries shall be included, and that the judgment shall show the
15 amount of any setoff.

16 No garnishee shall be liable to anyone for the nonpayment
17 of any sum or for the nondelivery of any goods or effects when
18 the garnishee in good faith believes, or has reason to believe,
19 that garnishment or other process affects the same, though such
20 be not the case, but this paragraph shall not supersede section
21 652-9 where the same are applicable."



1 SECTION 15. Section 652-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§652-2.5 Service on garnishee.** Service of the copy upon
4 the garnishee may be made in any of the manners here described,
5 namely:

6 (1) If the garnishee lives or has an office in the
7 district in which process is issued, by the [~~servicing~~
8 ~~officer's~~] sheriff, deputy sheriff, police officer, or
9 independent civil process server from the department
10 of public safety's list under section 353C- handing
11 a copy to the garnishee in person or leaving it in the
12 garnishee's office in charge of some deputy or clerk
13 or other employees or attache of the office; or

14 (2) If the garnishee lives in a district other than that
15 in which the process was issued, by the [~~servicing~~
16 ~~officer's~~] sheriff, deputy sheriff, police officer, or
17 independent civil process server handing a copy to the
18 garnishee in person, or by mailing it in a sealed
19 envelope, registered or certified, postage prepaid,
20 return receipt requested, and addressed to the
21 garnishee's last known home or business address."



1 SECTION 16. Section 652-2.6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In case of service upon the garnishee, the [~~servicing~~
4 ~~officer's~~] certificate of service or, if by mail, a copy of the
5 return receipt provided by the sheriff, deputy sheriff, police
6 officer, or independent civil process server from the department
7 of public safety's list under section 353C- shall be prima
8 facie proof of the service."

9 SECTION 17. Section 654-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§654-2 Bond.** When the plaintiff desires the immediate
12 delivery of the property, the plaintiff shall execute a bond to
13 the defendant in possession of the property, and to all persons
14 having an interest in the property, of such amount and with such
15 sureties as are approved by the court, conditioned that the
16 plaintiff will prosecute the plaintiff's action to judgment
17 without delay, and deliver the property to the defendant in
18 possession or any other person, if such delivery is adjudged,
19 and pay all costs and damages that may be adjudged against the
20 plaintiff. Upon the filing of the verified complaint or
21 affidavit with the bond and a motion for immediate consideration



1 of the matter, the court shall forthwith inquire into the
2 matter, ex parte or otherwise, as in its discretion it
3 determines. If thereupon the court finds that a prima facie
4 claim for relief has been established, it shall issue an order
5 directed to the sheriff, [~~or the~~] sheriff's deputy, [~~or the~~]
6 chief of police, [~~or~~] an authorized police officer of any
7 county[~~, or a person authorized by the rules of court~~], or an
8 independent civil process server from the department of public
9 safety's list under section 353C- to take the property
10 therein described and deliver the same to the plaintiff.

11 Copies of the verified complaint or affidavit, and, if a
12 bond for immediate seizure has been filed, of the bond, and, if
13 an order for the taking has been issued on an ex parte hearing,
14 of the order, shall forthwith be served upon the defendant in
15 possession and each person having or claiming a possessory
16 interest in the property, in the same manner as is provided for
17 service of summons unless the party to be served has appeared in
18 the action, in which case service may be made in the same manner
19 as is provided for service of papers other than the summons. In
20 a proper case, either before or after issuance of an order for
21 the taking, the required service may be combined with the



1 publication of the summons, in which event the giving of notice
2 of the substance of the proceeding shall be sufficient.

3 Upon the application of any party, the proceeding shall be
4 advanced and assigned for hearing at the earliest possible
5 date."

6 SECTION 18. Section 666-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§666-11 Judgment; writ of possession.** If it is proved to
9 the satisfaction of the court that the plaintiff is entitled to
10 the possession of the premises, the plaintiff shall have
11 judgment for possession, and for the plaintiff's costs.
12 Execution shall issue accordingly. The writ of possession shall
13 issue to the sheriff, deputy sheriff, police officer[~~, or other~~
14 ~~person authorized by the rules of court of the circuit where the~~
15 ~~premises are situated~~], or independent civil process server from
16 the department of public safety's list under section 353C- ,
17 commanding the sheriff, deputy sheriff, police officer[~~, or~~
18 ~~other person authorized by the rules of court~~], or independent
19 civil process server to remove all persons from the premises,
20 and to put the plaintiff, or the plaintiff's agent, into the
21 full possession thereof."



1 SECTION 19. Section 666-21, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) If the tenant is unable to comply with the court's
4 order under subsection (a) in paying the required amount of rent
5 to the court, the landlord shall have judgment for possession
6 and execution shall issue accordingly. The writ of possession
7 shall issue to the sheriff, deputy sheriff, police officer[~~7~~
8 ~~or other person authorized by the rules of court of the circuit~~
9 ~~where the premises are situated~~], or independent civil process
10 server from the department of public safety's list under section
11 353C-___, ordering the sheriff, deputy sheriff, police officer[~~7~~
12 ~~or other person authorized by the rules of court~~], or
13 independent civil process server to remove all persons and
14 possessions from the premises, and to put the landlord, or the
15 landlord's agent, into full possession of the premises."

16 SECTION 20. Section 708-813, Hawaii Revised Statutes, is
17 amended by amending subsection (3) to read as follows:

18 "(3) As used in this section, "process server" means any
19 person authorized under the Hawaii rules of civil procedure,
20 district court rules of civil procedure, Hawaii family court
21 rules, or section [~~353C-10~~] 353C-___ to serve process."



1 SECTION 21. Section 708-814, Hawaii Revised Statutes, is
2 amended by amending subsection (2) to read as follows:

3 "(2) Subsection (1) shall not apply to a process server
4 who enters or remains in or upon the land or premises of
5 another, unless the land or premises are secured with a fence
6 and locked gate, for the purpose of making a good faith attempt
7 to perform the process server's legal duties and to serve
8 process upon any of the following:

9 (a) An owner or occupant of the land or premises;

10 (b) An agent of the owner or occupant of the land or
11 premises; or

12 (c) A lessee of the land or premises.

13 For the purposes of this subsection, "process server" means
14 any person authorized under the Hawaii rules of civil procedure,
15 district court rules of civil procedure, Hawaii family court
16 rules, or section [~~353C-10~~] 353C-___ to serve process."

17 SECTION 22. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

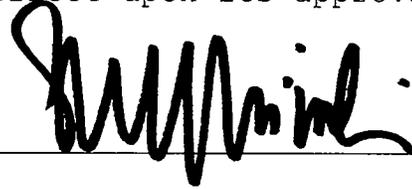


S.B. NO. 328

1 SECTION 23. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be 'S. M. ...'.

S.B. NO. 328

Report Title:

Service of Process; List of Independent Civil Process Servers;
Department of Public Safety

Description:

Reinstates provisions, repealed on June 30, 2020, relating to service of process and requiring the director public safety to maintain a list of independent civil process servers. Authorizes the use of policer officers and independent civil process servers to process orders and writs for certain causes of action.

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

