

ACT 190

S.B. NO. 2480

A Bill for an Act Relating to Annulment, Divorce, and Separation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-3, Hawaii Revised Statutes, is amended to read as follows:

“§580-3 Service. (a) The complaint for annulment, divorce, or separation, and the summons shall be served by an authorized process server on the defendant

personally if the defendant is within the State, unless the defendant enters an appearance in the case, and except as hereinafter otherwise provided.

(b) If service by an authorized process server is not feasible or is inconvenient or if the defendant is without the State, the court may authorize the service to be made by any other responsible person, or the court may authorize notice of the pendency of the action and of a time and place of hearing, which shall be not less than twenty days after the giving of personal notice, to be given to the defendant personally by such person and in such manner as the court shall designate and the case may be heard and determined at or after the time specified in the notice.

(c) If the defendant is without the circuit, the court may authorize service by registered or certified mail, with request for a return receipt and direction to deliver to addressee only. The return receipt signed by the defendant shall be prima facie evidence that the defendant accepted delivery of the complaint and summons on the date set forth on the receipt. Actual receipt by the defendant of the complaint and summons sent by registered or certified mail shall be equivalent to personal service on the defendant by an authorized process server as of the date of the receipt.

(d) If it appears that the defendant has refused to accept service by mail, or is concealing oneself, or evading service, or that plaintiff does not know the address or residence of the defendant and has not been able to ascertain the same after reasonable and due inquiry and search for at least fifteen days either before or after the filing of the complaint, the court may authorize notice of the pendency of the action and of a time and place of hearing, which shall not be less than twenty days after the last publication of the published notice, to be given to the defendant by publication thereof at least once in each of three successive weeks in a newspaper suitable for the advertisement of notices of judicial proceedings, published in the State, and the case may be heard and determined at or after the time specified in the notice.

(e) If the plaintiff, as a result of impoverishment, is unable to publish notice as required by subsection (d), the plaintiff shall file an affidavit attesting to impoverishment and to the fact that after due and diligent search, the whereabouts of the individual sought to be served are unknown. Upon those filings, the court shall order that service be made by forwarding a certified copy of the pleadings and process to the individual at the last known address by registered or certified mail, with a return receipt requested and a directive to deliver to addressee only, sending a certified copy of the pleadings and process to the defendant's closest known relative, if any can be found, and by posting a copy of the pleadings and process at the courthouse in which the pleadings and process has been filed. Service shall be completed thirty days after mailing. The plaintiff shall attest to the fact of the mailing and the date thereof by affidavit, attaching the sender's receipt for that mail and, if available, the return receipt and envelope."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 2000.)