

A Bill for an Act Relating to Family Court.

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

SECTION 1. Since becoming the State's only daily newspaper of general circulation, the Honolulu Star-Advertiser has increased classified rates for legal notices more than five hundred per cent. Weekday rates have increased from \$9.75 to \$65 and Sunday rates have increased from \$11 to \$75. Additionally, over the past ten years, newspaper circulation nationwide has decreased, leading to fewer people reading the classifieds.

The legislature finds that the increase in legal classified rates has placed a burden on impoverished litigants who are unable to locate the opposing party and must serve notice of a proceeding by purchasing a legal classified. The dramatic price increase in the cost to publish legal notices combined with the decrease in printed newspaper readership has made the practice of service by publication obsolete for family court cases involving impoverished litigants.

The purpose of this Act is to allow impoverished family court litigants an alternative to serving notice by publication, by allowing the posting of pleadings at the courthouse. This Act allows family court plaintiffs or petitioners who are unable to afford to serve notice by publication to serve notice to a defendant or respondent by, after a due and diligent search for the defendant or respondent, mailing pleadings and process to the defendant or respondent and to the defendant's or respondent's closest known relative, and posting pleadings and process at the courthouse with the permission of the family court.

SECTION 2. Section 601-13, Hawaii Revised Statutes, is amended to read as follows:

"§601-13 Publication of notices and process. (a) All notices or process required or permitted by law, by the rules of any court, or by judicial order to be published or advertised in judicial proceedings in the State shall be published or advertised in a newspaper or newspapers having a general circulation within the county in which the judicial proceedings are commenced or had, except as otherwise provided.

(b) When the notices or process are required to be published or advertised once or more in a given interval for or in a successive number of [such] intervals, the use of the word [~~“successive,”~~] **“successive”** shall not be construed to require publication in more than the stated number of intervals; for example, a requirement of publication **“once a week for (or in) three successive [weeks,]”** shall require [~~but~~] **only** three publications.

(c) Notwithstanding any law to the contrary, in all family court cases, if the plaintiff or petitioner, as a result of impoverishment, is unable to publish notice as required by subsection (a), the plaintiff or petitioner 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 such filings, the family 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, by sending a certified copy of the pleadings and process to the defendant's or respondent'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 have been filed. Service shall be completed thirty days after mailing. The plaintiff or petitioner 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 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on September 1, 2012.

(Approved July 9, 2012.)