

JAN 23 2009

A BILL FOR AN ACT

RELATING TO SERVICE OF COURT ORDERS.

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

1 SECTION 1. Section 586-6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Any order issued under this chapter shall [~~either~~] be
4 personally served upon the respondent, or served by certified
5 mail, unless the respondent was present at the hearing in which
6 case the respondent shall be deemed to have notice of the
7 order[-]; provided that the court may order an appropriate
8 substituted means of service of process if the court finds by
9 clear and convincing evidence that the person named is avoiding
10 personal service or service by certified mail. A filed copy of
11 each order issued under this chapter shall be served by regular
12 mail upon the chief of police of each county."

13 SECTION 2. Section 604-10.5, Hawaii Revised Statutes, is
14 amended by amending subsection (f) to read as follows:

15 "(f) A temporary restraining order that is granted under
16 this section shall remain in effect at the discretion of the
17 court for a period not to exceed ninety days from the date the



1 order is granted. A hearing on the petition to enjoin
2 harassment shall be held within fifteen days after the temporary
3 restraining order is granted. In the event that service of the
4 temporary restraining order has not been effected before the
5 date of the hearing on the petition to enjoin, the court may set
6 a new date for the hearing; provided that the new date shall not
7 exceed ninety days from the date the temporary restraining order
8 was granted.

9 The parties named in the petition may file or give oral
10 responses explaining, excusing, justifying, or denying the
11 alleged act or acts of harassment. The court shall receive all
12 evidence that is relevant at the hearing, and may make
13 independent inquiry.

14 If the court finds by clear and convincing evidence that
15 harassment as defined in paragraph (1) of that definition
16 exists, it may enjoin for no more than three years further
17 harassment of the petitioner, or that harassment as defined in
18 paragraph (2) of that definition exists, it shall enjoin for no
19 more than three years further harassment of the petitioner;
20 provided that this paragraph shall not prohibit the court from
21 issuing other injunctions against the named parties even if the



1 time to which the injunction applies exceeds a total of three
2 years.

3 Any order issued under this section shall be served upon
4 the respondent. For the purposes of this section, "served"
5 shall mean actual personal service, service by certified mail or
6 proof that the respondent was present at the hearing in which
7 the court orally issued the injunction[-]; provided that the
8 court may order an appropriate substituted means of service of
9 process if the court finds by clear and convincing evidence that
10 the person named is avoiding personal service or service by
11 certified mail.

12 Where service of a restraining order or injunction has been
13 made or where the respondent is deemed to have received notice
14 of a restraining order or injunction order, any knowing or
15 intentional violation of the restraining order or injunction
16 order shall subject the respondent to the provisions in
17 subsection (h).

18 Any order issued shall be transmitted to the chief of
19 police of the county in which the order is issued by way of
20 regular mail, facsimile transmission, or other similar means of
21 transmission."



S.B. NO. 672

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Service of Process; Protective and Temporary Restraining Orders

Description:

Allows a court to order substituted service of protective and temporary restraining orders if the court finds that the respondent has been deliberately avoiding personal service.

