
A BILL FOR AN ACT

RELATING TO THE SERVICE OF PROCESS.

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

1 SECTION 1. Section 603-29, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§603-29 Order to show cause.** Whenever a complaint has
4 been filed in circuit court alleging leased or rented personal
5 property the value of which is \$5,000 or more, has been retained
6 by the defendant 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 plaintiff may petition the court for an
10 order to show cause.

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



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

17 SECTION 2. Section 604-6.2, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§604-6.2 Order to show cause.** Upon the filing of a
 20 complaint with a copy of a lease or rental contract and an
 21 affidavit sworn to by the plaintiff or some competent affiant
 22 setting forth a statement of facts sufficient to show that the



1 leased or rented personal property has been in the defendant's
2 possession at least fourteen days after the termination of the
3 lease or rental contract, either by passage of time or by reason
4 of any default under the terms and conditions of the lease or
5 rental contract, the court may issue an order directing the
6 defendant to either return the leased or rented personal
7 property to the plaintiff or to appear and show cause for the
8 possession at such time as the court shall direct, but not later
9 than ten days from the date of service of the order to show
10 cause. The order to show cause shall also provide that, if the
11 leased or rented personal property is not returned to the
12 plaintiff prior to the hearing, the defendant shall, if
13 reasonably feasible, produce the property at the hearing. If,
14 at the hearing, it is proved to the satisfaction of the court
15 that the plaintiff is entitled to possession of the leased or
16 rented personal property, it shall issue an order directed to
17 the sheriff, [~~or the sheriff's~~] deputy[~~r~~] sheriff, or other
18 person authorized by the rules of court commanding the sheriff
19 [~~or~~], deputy sheriff, or a person authorized by the rules of
20 court to seize the personal property therein described and to
21 deliver the same to the plaintiff or the plaintiff's agent.
22 Service of the order to show cause shall be as provided by law



1 or rule of court for cases in the district courts, or by
2 registered mail or by certified mail with return receipt showing
3 delivery within the State."

4 SECTION 3. Section 607-4, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) [~~Sheriff's or~~] Fees of sheriff, deputy sheriff,
7 police [~~officer's fees~~] officer, or other person authorized by
8 the rules of court:

- 9 (1) For serving any criminal summons, warrant, attachment,
10 or other criminal process, \$30 effective July 1, 2001.
11 This fee is payable to a sheriff, deputy sheriff, or
12 police officer. Only a sheriff, deputy sheriff, or
13 police officer may serve criminal process.
- 14 (2) For serving any civil summons, warrant, attachment, or
15 other civil process, \$25 effective July 1, 2001.
- 16 (3) For every copy of an attachment and inventory of the
17 property attached, served upon the defendant, \$2.
- 18 (4) For serving any execution, 12 cents for every \$1
19 collected up to \$500, and 7 cents for every \$1 over
20 \$500.
- 21 (5) For serving: subpoena, \$25; and subpoena duces tecum
22 or garnishee summons, \$15 effective July 1, 2001.



1 (6) For every mile of travel, more than one, in serving
2 any process, 40 cents; provided that:

3 (A) [~~no~~] No allowance shall be made where the serving
4 [~~officer~~] individual uses a conveyance furnished
5 the serving [~~officer~~] individual by the State, or
6 any political or municipal subdivision thereof;

7 (B) [~~where~~] Where the serving [~~officer~~] individual
8 serves more than one person in the course of one
9 trip, the serving [~~officer~~] individual shall not
10 charge, in the aggregate for all services, more
11 than the mileage for the entire trip; and

12 (C) [~~as~~] As far as practicable, in order to minimize
13 the mileage fees for the service, the sheriff or
14 other chief of the serving officers, or other
15 person authorized by the rules of court, where
16 service of process is to be made upon an island
17 other than that upon which is situated the court
18 issuing the process, shall cause the process to
19 be transmitted to [~~a~~] the sheriff, deputy[~~7~~]
20 sheriff, the chief of police, a person authorized
21 by the rules of court, or other serving [~~officer~~]
22 individual upon the island of service, who shall



1 make the service upon receipt of the process; and
2 the service shall be valid, notwithstanding that
3 the process may not be addressed to the [~~officer~~]
4 individual actually making the service or to the
5 [~~officer's~~] individual's superior.

6 In lieu of any fee under this subsection, the fee may be an
7 hourly rate of not less than \$50 per hour agreed upon in advance
8 between the party requesting the service and the sheriff [~~or~~],
9 deputy sheriff, police officer, or other person authorized by
10 the rules of court performing the service."

11 SECTION 4. Section 607-8, Hawaii Revised Statutes, is
12 amended by amending its title and subsection (a) to read as
13 follows:

14 "**§607-8** [~~Sheriff's or~~] **Fees of sheriff, serving or levying**
15 **[~~officer's fees~~] officer, or other person authorized by the**
16 **rules of court in circuit court, intermediate appellate court,**
17 **or supreme court.** (a) For all necessary travel in making the
18 service, per mile for every mile more than one...40 cents
19 provided that:

20 (1) No allowance shall be made where the serving [~~officer~~]
21 individual uses a conveyance furnished the serving



1 ~~[officer]~~ individual by the State, or any political or
2 municipal subdivision thereof;

3 (2) Where the serving ~~[officer]~~ individual serves more
4 than one person in the course of one trip, the serving
5 ~~[officer]~~ individual shall not charge, in the
6 aggregate for all services more than the mileage for
7 the entire trip; and

8 (3) As far as practicable, in order to minimize the
9 mileage fees for the service, the sheriff or other
10 chief of the serving officers, or other person
11 authorized by the rules of court where service of
12 process is to be made upon an island other than that
13 upon which is situated the court issuing the process,
14 shall cause the process to be transmitted to [a] the
15 sheriff, deputy~~[7]~~ sheriff, the chief of police, other
16 person authorized by the rules of court, or other
17 serving ~~[officer]~~ individual upon the island of
18 service who shall make the service upon receipt of the
19 process; and the service shall be valid,
20 notwithstanding that the process may not be addressed
21 to the ~~[officer]~~ individual actually making the
22 service or to the ~~[officer's]~~ individual's superior.

1 For serving criminal summons or any other criminal process
 2 except a subpoena, for each person served therewith
 3 \$30 effective July 1, 2001. Only a
 4 sheriff, deputy sheriff, or police officer may serve criminal
 5 process.

6 For serving civil summons or any other civil process,
 7 except a subpoena or a garnishee summons, for each person
 8 served therewith \$25 effective July 1,
 9 2001.

10 For serving: subpoena, for each person, \$25; and
 11 subpoena duces tecum or garnishee summons, for each
 12 person \$15 effective July 1, 2001.

13 For returning as unserved after due and diligent search any
 14 process when it has been found that the person to be served has
 15 left the State \$5 effective July 1, 2001.

16 For serving any execution or other process for the
 17 collection of money, for every dollar collected up
 18 to \$1,000 5 cents.

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

20 All fees paid to any printer for publishing an
 21 advertisement of the sale of any property.

22 For every bill of sale \$2.



1 For executing and acknowledging a deed pursuant to a
2 sale of real estate to be paid by the grantee in the
3 deed..... \$8.

4 For drawing any bond required by law..... \$2.

5 For serving writ of possession or restitution,
6 putting any person entitled into the possession of
7 premises, and removing a tenant pursuant to order of
8 court..... \$25.

9 Together with all necessary expenses incurred by the
10 [~~officer~~] individual serving the writ, incident to the eviction.

11 For selling any property on an order from the court other
12 than an execution, the same allowance as for service and sales
13 by execution.

14 The fees for service of executions, attachments, and
15 collection of judgments, together with all costs incurred after
16 judgment rendered, not included in the judgment, in all courts
17 of the State, shall be collected in addition to the sum directed
18 to be levied and collected in the writ.

19 In lieu of any fee under this subsection, the fee may be an
20 hourly rate of not less than \$50 per hour agreed upon in advance
21 between the party requesting the service and the sheriff [~~or~~],



1 deputy sheriff, police officer, or other person authorized by
2 the rules of court performing the service."

3 SECTION 5. Section 633-8, Hawaii Revised Statutes, is
4 amended to read as follows:

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



1 that the plaintiff is entitled to possession of the leased or
2 rented personal property, it shall issue an order directed to
3 the sheriff, [~~or the sheriff's~~] deputy[~~]~~ sheriff, or other
4 person authorized by the rules of court commanding the sheriff
5 [~~or the sheriff's~~], deputy sheriff, or other person authorized
6 by the rules of court to seize the personal property therein
7 described and to deliver the same to the plaintiff or the
8 plaintiff's agent. Service of the order to show cause shall be
9 as provided by law or rule of court for cases in the district
10 courts, or by registered mail or by certified mail with return
11 receipt showing delivery within the circuit."

12 SECTION 6. Section 634-11, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§634-11 Interpleader; [sheriff's] application for**
15 **order[-] by sheriff or other person authorized by the rules of**
16 **court.** When, in the execution of process against goods and
17 chattels issued by or under the authority of the courts of the
18 State, by reason of claims made to such goods and chattels by
19 assignees of bankrupts and other persons not being the parties
20 against whom such process had issued, whereby the [~~sheriffs and~~]
21 sheriff, deputy sheriffs, other officers, or persons authorized
22 by the rules of court are exposed to the hazard and expense of



1 actions, any such claim shall be made to any goods or chattels
2 taken or intended to be taken in execution under any such
3 process or to the proceeds or value thereof, it shall be lawful
4 for the court, out of which the execution shall have issued, or
5 any judge thereof, upon application of the sheriff [~~e~~], deputy
6 sheriff, other officer, or other person authorized by the rules
7 of court, made before or after the return of such process, and
8 as well before as after any action brought against the sheriff
9 [~~e~~], deputy sheriff, other officer, or other person authorized
10 by the rules of court, to call before it or the judge by rule,
11 order, or summons, as well the party issuing such process as the
12 party making the claim. Thereupon the court or judge shall, for
13 the adjustment of the claims and the relief and protection of
14 the sheriff [~~e~~], deputy sheriff, other officer, or other person
15 authorized by the rules of court, make such rules, orders, and
16 decisions as shall appear to be just according to the
17 circumstances of the case. The costs of all such proceedings
18 shall be in the discretion of the court or judge."

19 SECTION 7. Section 634-12, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§634-12 Sale of property seized on execution, when.** When
22 goods or chattels have been seized in execution by the sheriff



1 ~~[or]~~, deputy sheriff, other officer, or other person authorized
2 by the rules of court, under process of any court, and some
3 third person claims to be entitled under a bill of sale, chattel
4 mortgage, or otherwise, to the goods and chattels by way of
5 security for a debt, the court or a judge may order a sale of
6 the whole or part thereof, upon such terms as to the payment of
7 the whole or part of the secured debt or otherwise as it or the
8 judge shall think fit; and may direct the application of the
9 proceeds of sale in such manner and upon such terms as to the
10 court or judge may seem just."

11 SECTION 8. Section 634-22, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§634-22 Return.** In all cases where any process or order
14 of a court is served by any officer of the court or of the
15 police force or the sheriff ~~[or the sheriff's deputies]~~, deputy
16 sheriff, or any investigator appointed and commissioned by the
17 director of commerce and consumer affairs pursuant to section
18 26-9(j), a record thereof shall be endorsed upon the back of the
19 process, complaint, order, or citation. The record shall state
20 the name of the person served and the time and place of service
21 and shall be signed by the officer making the service. If the
22 officer fails to make service the officer, in like manner, shall



1 endorse the reason for the officer's failure and sign this
2 record. When service is made by a person specially appointed by
3 the court, or a person authorized by the rules of court, the
4 person shall make affidavit of that service.

5 The record or the affidavit shall be prima facie evidence
6 of all it contains, and no further proof thereof shall be
7 required unless either party desires to examine the officer or
8 person making service, in which case the officer or person shall
9 be notified to appear for examination."

10 SECTION 9. Section 651-1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§651-1 General provisions.** This [~~part~~] chapter shall
13 apply to circuit and district courts. A judge of any court of
14 record may make any order at chambers which may by the
15 provisions of this [~~part~~] chapter be made by the court in term
16 time. When the proceedings are before a district judge, the
17 judge shall be regarded as the clerk of the court for all
18 purposes contemplated herein. The phrase "police officer", as
19 used in this [~~part~~,] chapter, means the director of public
20 safety or the director's duly authorized representative, any
21 chief of police or subordinate police officer, or a person
22 authorized by the rules of court. Nothing in this [~~part~~]



1 chapter shall be construed to permit a district judge to issue a
2 writ of attachment to be served out of the circuit in which the
3 judge's court is situated, or to permit an attachment of real
4 estate, or any interest therein, under a writ issued by a
5 district court judge."

6 SECTION 10. 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 [~~or to a~~], deputy sheriff, police officer,
14 or other person authorized by the rules of court of the circuit
15 where the premises are situated, commanding the sheriff [~~or~~],
16 deputy sheriff, police officer, or other person authorized by
17 the rules of court to remove all persons from the premises, and
18 to put the plaintiff, or the plaintiff's agent, into the full
19 possession thereof."

20 SECTION 11. Section 666-21, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



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

12 SECTION 12. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 13. This Act shall take effect upon its approval.



Report Title:

Department of Public Safety; Judiciary; Service of Process;
Authorized Persons

Description:

Update the statutes to authorize persons authorized by the rules of court to serve legal process, except criminal process, and execute specified court orders. (HB2601 HD3)

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

