

---

---

# 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. 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 and 604;

8           (2) Garnishment pursuant to chapter 652;

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

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

12           and

13           (5) Orders for examination pursuant to chapter 636.

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

17           (1) Is serving a criminal sentence;



1       (2) Has been convicted of a crime within the previous ten  
2           years;

3       (3) Is required to register as a sex offender; or

4       (4) Is subject to any other legal restriction, including a  
5           temporary restraining order, that prevents the person  
6           from serving process.

7       (c) The department, the State, and the agencies, officers,  
8       and employees of the department or the State shall not be  
9       responsible or liable for the actions of any independent civil  
10       process servers on the list. The maintenance of the list shall  
11       not create a private cause of action against the department, the  
12       State, and the agencies, officers, and employees of the  
13       department or the State.

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

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

19       "**§501-154 Writ of possession, service, time limit for**  
20       **registration.** When in any action in the nature of an action of  
21       ejectment an execution or writ of possession has been issued and  
22       served by the [~~officer,~~] sheriff, deputy sheriff, police



1 officer, or independent civil process server from the department  
2 of public safety's list under section 353C- , the [~~officer~~]  
3 sheriff, deputy sheriff, police officer, or independent civil  
4 process server shall cause a copy of the writ, with a return of  
5 the [~~officer's~~] doings of the sheriff, deputy sheriff, police  
6 officer, or independent civil process server thereon, to be  
7 filed and registered within three months after the service and  
8 before the return of the writ into the clerk's office. The  
9 plaintiff, in case the judgment was that the plaintiff was  
10 entitled to an estate in fee simple in the demanded premises, or  
11 in any part thereof, and for which execution or writ of  
12 possession issued, is thereupon entitled to the entry of a new  
13 certificate of title."

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

16 "**§603-29 Order to show cause.** Whenever a complaint has  
17 been filed in circuit court alleging leased or rented personal  
18 property the value of which is \$5,000 or more, has been retained  
19 by the defendant fourteen days after the termination of the  
20 lease or rental contract, either by passage of time or by reason  
21 of any default under the terms and conditions of the lease or



1 rental contract, the plaintiff may petition the court for an  
2 order to show cause.

3       Upon the filing of the petition with a copy of the lease or  
4 rental contract and an affidavit sworn to by the plaintiff or  
5 some competent affiant setting forth a statement of facts  
6 sufficient to show the termination of the lease or rental  
7 contract, the court may issue an order directing the defendant  
8 to either return the leased or rented personal property to the  
9 plaintiff or to appear and show cause for the possession at such  
10 time as the court shall direct but not later than ten days from  
11 the date of service of the order to show cause. The order to  
12 show cause shall also provide that if the leased or rented  
13 personal property is not returned to the plaintiff prior to the  
14 hearing, the defendant shall, if reasonably feasible, produce  
15 the property at the hearing. If, at the hearing, it is proved  
16 to the satisfaction of the court that the plaintiff is entitled  
17 to possession of the leased or rented personal property, it  
18 shall issue an order directed to the sheriff, deputy sheriff,  
19 ~~[or person authorized by the rules of court,]~~ police officer, or  
20 independent civil process server commanding the sheriff, deputy  
21 sheriff, or ~~[other person authorized by the rules of court]~~  
22 police officer to seize the personal property therein described



1 and to deliver the same to the plaintiff or the plaintiff's  
2 agent. Service of the order to show cause shall be as provided  
3 by law or rule of court for cases in the circuit courts, or by  
4 registered mail or by certified mail with return receipt showing  
5 delivery within the circuit."

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

8 "§604-6.2 Order to show cause. Upon the filing of a  
9 complaint with a copy of a lease or rental contract and an  
10 affidavit sworn to by the plaintiff or some competent affiant  
11 setting forth a statement of facts sufficient to show that the  
12 leased or rented personal property has been in the defendant's  
13 possession at least fourteen days after the termination of the  
14 lease or rental contract, either by passage of time or by reason  
15 of any default under the terms and conditions of the lease or  
16 rental contract, the court may issue an order directing the  
17 defendant to either return the leased or rented personal  
18 property to the plaintiff or to appear and show cause for the  
19 possession at such time as the court shall direct, but not later  
20 than ten days from the date of service of the order to show  
21 cause. The order to show cause shall also provide that, if the  
22 leased or rented personal property is not returned to the



1 plaintiff prior to the hearing, the defendant shall, if  
2 reasonably feasible, produce the property at the hearing. If,  
3 at the hearing, it is proved to the satisfaction of the court  
4 that the plaintiff is entitled to possession of the leased or  
5 rented personal property, it shall issue an order directed to  
6 the sheriff, deputy sheriff, or [~~other person authorized by the~~  
7 ~~rules of court~~] police officer, or independent civil process  
8 server commanding the sheriff, deputy sheriff, or [~~a person~~  
9 ~~authorized by the rules of court~~] police officer to seize the  
10 personal property therein described and to deliver the same to  
11 the plaintiff or the plaintiff's agent. Service of the order to  
12 show cause shall be as provided by law or rule of court for  
13 cases in the district courts, or by registered mail or by  
14 certified mail with return receipt showing delivery within the  
15 State."

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

18 "(d) Fees of sheriff, deputy sheriff, police officer, or  
19 [~~other person authorized by the rules of court-:]~~ independent  
20 civil process server from the department of public safety's list  
21 under section 353C- :



- 1           (1) For serving any criminal summons, warrant, attachment,  
2           or other criminal process, \$30 effective July 1, 2001.  
3           This fee is payable to a sheriff, deputy sheriff, or  
4           police officer. Service of criminal summons, warrant,  
5           attachment, or other criminal process shall be made  
6           only by persons authorized to serve criminal summons  
7           ~~[in accordance with rules of court].~~
- 8           (2) For serving any civil summons, warrant, attachment, or  
9           other civil process, \$25 effective July 1, 2001.
- 10          (3) For every copy of an attachment and inventory of the  
11          property attached, served upon the defendant, \$2.
- 12          (4) For serving any execution, 12 cents for every \$1  
13          collected up to \$500, and 7 cents for every \$1 over  
14          \$500.
- 15          (5) For serving: subpoena, \$25; and subpoena duces tecum  
16          or garnishee summons, \$15 effective July 1, 2001.
- 17          (6) For every mile of travel, more than one, in serving  
18          any process, 40 cents; provided that:
- 19                (A) No allowance shall be made where the serving  
20                individual uses a conveyance furnished the  
21                serving individual by the State, or any political  
22                or municipal subdivision thereof;



1 (B) Where the serving individual serves more than one  
2 person in the course of one trip, the serving  
3 individual shall not charge, in the aggregate for  
4 all services, more than the mileage for the  
5 entire trip; and

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





1                   be addressed to the individual actually making  
2                   the service or to the individual's superior.  
3    In lieu of any fee under this subsection, the fee may be an  
4    hourly rate of not less than \$50 per hour agreed upon in advance  
5    between the party requesting the service and the sheriff, deputy  
6    sheriff, police officer, or [~~other person authorized by the~~  
7    ~~rules of court~~] independent civil process server performing the  
8    service."

9           SECTION 6. Section 607-8, Hawaii Revised Statutes, is  
10   amended by amending the title and subsection (a) to read as  
11   follows:

12           "§607-8 Fees of sheriff, deputy sheriff, police officer,  
13   serving or levying officer, or [~~other person authorized by the~~  
14   ~~rules of court in circuit court, intermediate appellate court,~~  
15   ~~or supreme court.~~] independent civil process server. (a) For  
16   all necessary travel in making the service, per mile for every  
17   mile more than one...40 cents provided that:

18           (1) No allowance shall be made where the serving  
19           individual uses a conveyance furnished the serving  
20           individual by the State, or any political or municipal  
21           subdivision thereof;



1           (2) Where the serving individual serves more than one  
2           person in the course of one trip, the serving  
3           individual shall not charge, in the aggregate for all  
4           services more than the mileage for the entire trip;  
5           and  
6           (3) As far as practicable, in order to minimize the  
7           mileage fees for the service, the sheriff or ~~[other]~~  
8           chief of police of the serving police officers, or  
9           ~~[other person authorized by the rules of court where~~  
10          ~~service of process is to be made upon an island other~~  
11          ~~than that upon which is situated the court issuing the~~  
12          ~~process,]~~ independent civil process server from the  
13          department of public safety's list under section  
14          353C-\_\_\_\_\_ shall cause the process to be transmitted to  
15          the sheriff, deputy sheriff, the chief of police,  
16          ~~[other person authorized by the rules of court, or]~~  
17          other serving ~~[individual]~~ police officers, or  
18          independent civil process servers upon the island of  
19          service who shall make the service upon receipt of the  
20          process; and the service shall be valid,  
21          notwithstanding that the process may not be addressed



1 to the individual actually making the service or to  
2 the individual's superior.

3 For serving criminal summons or any other criminal process  
4 except a subpoena, for each person served therewith  
5 ..... \$30 effective July 1, 2001. Service of  
6 criminal summons or any other criminal process shall be made  
7 only by persons authorized to serve criminal summons [~~in~~  
8 ~~accordance with rules of court~~].

9 For serving civil summons or any other civil process,  
10 except a subpoena or a garnishee summons, for each person  
11 served therewith ..... \$25 effective July 1,  
12 2001.

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

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

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

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



1 All fees paid to any printer for publishing an  
2 advertisement of the sale of any property.

3 For every bill of sale ..... \$2.

4 For executing and acknowledging a deed pursuant to a  
5 sale of real estate to be paid by the grantee in the  
6 deed..... \$8.

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

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

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

14 For selling any property on an order from the court other  
15 than an execution, the same allowance as for service and sales  
16 by execution.

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



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

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

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



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

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

19 "§634-11 Interpleader; application for order by sheriff  
20 [~~er other person authorized by the rules of court.~~], deputy  
21 sheriff, police officer, or independent civil process server.

22 When, in the execution of process against goods and chattels



1 issued by or under the authority of the courts of the State, by  
2 reason of claims made to such goods and chattels by assignees of  
3 bankrupts and other persons not being the parties against whom  
4 such process had issued, whereby the sheriff, deputy sheriffs [~~7~~  
5 ~~ether~~] police officers, or [~~persons authorized by the rules of~~  
6 ~~court~~] independent civil process servers from the department of  
7 public safety's list under section 353C- are exposed to the  
8 hazard and expense of actions, any such claim shall be made to  
9 any goods or chattels taken or intended to be taken in execution  
10 under any such process or to the proceeds or value thereof, it  
11 shall be lawful for the court, out of which the execution shall  
12 have issued, or any judge thereof, upon application of the  
13 sheriff, deputy sheriff, [~~ether~~] police officer, or [~~ether~~  
14 ~~person authorized by the rules of court,~~] independent civil  
15 process server made before or after the return of such process,  
16 and as well before as after any action brought against the  
17 sheriff, deputy sheriff, [~~ether~~] police officer, or [~~ether~~  
18 ~~person authorized by the rules of court,~~] independent civil  
19 process server to call before it or the judge by rule, order, or  
20 summons, as well the party issuing such process as the party  
21 making the claim. Thereupon the court or judge shall, for the  
22 adjustment of the claims and the relief and protection of the



1 sheriff, deputy sheriff, [~~ether~~] police officer, or [~~ether~~  
2 ~~person authorized by the rules of court,~~] independent civil  
3 process server, make such rules, orders, and decisions as shall  
4 appear to be just according to the circumstances of the case.  
5 The costs of all such proceedings shall be in the discretion of  
6 the court or judge."

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

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

21 SECTION 10. Section 634-22, Hawaii Revised Statutes, is  
22 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, or 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, or independent civil process  
12 server making the service. If the [~~officer~~] sheriff, deputy  
13 sheriff, police officer, or independent civil service process  
14 server fails to make service, the [~~officer,~~] sheriff, deputy  
15 sheriff, police officer, or independent civil process server, in  
16 like manner, shall endorse the reason for the [~~officer's~~]  
17 sheriff, deputy sheriff, police officer, or independent civil  
18 process server's failure and sign this record. When service is  
19 made by a person specially appointed by the court, or [~~a person~~  
20 ~~authorized by the rules of court, the person~~] an independent  
21 civil process server, that person shall make declaration or  
22 affidavit of that service.



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

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

10           "~~+~~§634-29~~+~~ In case of attachment, etc., of real  
11 property. In all cases of attachment, sequestration, or  
12 injunction of real property, the sheriff, deputy sheriff, police  
13 officer, or independent civil process server from the department  
14 of public safety's list under section 353C- serving the writ  
15 shall, in addition to personal delivery of a copy thereof to the  
16 defendant, post upon the premises a copy of the process, and a  
17 notice of the day and hour when attached, sequestered, or  
18 enjoined, and shall also give notice thereof in a newspaper or  
19 newspapers suitable for the advertisement of judicial  
20 proceedings. But in all cases where a writ of attachment is  
21 issued in accordance with chapter 651 relating to attachments,  
22 and the defendant in attachment was never a resident of the



1 State or has departed from the State or secretes oneself so that  
2 the writ of attachment cannot be personally served upon the  
3 defendant, personal service of the writ upon the defendant may  
4 be dispensed with. All after-leases, mortgages, sales, devises,  
5 assignments, trusts, or other conveyances of the property, until  
6 the dissolution of the process, shall be void in law as against  
7 the plaintiff in such cases."

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

10 "§651-1 General provisions. This chapter shall apply to  
11 circuit and district courts. A judge of any court of record may  
12 make any order at chambers which may by the provisions of this  
13 chapter be made by the court in term time. When the proceedings  
14 are before a district judge, the judge shall be regarded as the  
15 clerk of the court for all purposes contemplated herein. The  
16 phrase "police officer", as used in this chapter, means the  
17 director of public safety or the director's duly authorized  
18 representative, any chief of police or subordinate police  
19 officer, or ~~[a person authorized by the rules of court.]~~ an  
20 independent process server. Nothing in this chapter shall be  
21 construed to permit a district judge to issue a writ of  
22 attachment to be served out of the circuit in which the judge's



1 court is situated, or to permit an attachment of real estate, or  
2 any interest therein, under a writ issued by a district court  
3 judge."

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

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

10 (1) An application, directed to the court to which such  
11 action is made returnable, for garnishee process to  
12 issue under section 652-1(a);

13 (2) An affidavit sworn to by the creditor or some  
14 competent affiant setting forth a statement of facts  
15 sufficient to show that probable validity exists to  
16 sustain the validity of the creditor's claim;

17 (3) An order that a hearing be held before the court or a  
18 judge thereof to determine whether or not the  
19 garnishee process should be granted and that notice of  
20 such hearing be given to the defendant debtor; and

21 (4) A summons directed to [~~a proper officer~~] the sheriff,  
22 deputy sheriff, police officer, or independent civil



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

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

11            "**§652-2 Garnishee, rights, duties; collection by [~~levying~~**  
 12            ~~officer.]~~ sheriff, deputy sheriff, or police officer. The  
 13            garnishee shall, when summoned before judgment rendered against  
 14            his principal, if [~~he~~] the garnishee desires, be admitted to  
 15            defend [~~his~~] the garnishee's principal in the action.

16            If judgment is rendered in favor of the plaintiff, and  
 17            likewise in all cases in which the garnishee is summoned after  
 18            judgment, the garnishee fund, or such part thereof as may be  
 19            sufficient for that purpose, shall be liable to pay the same.  
 20            The plaintiff on praying out execution shall be entitled to have  
 21            included in the execution an order directing the [~~officer~~]  
 22            sheriff, deputy sheriff, or police officer serving the same to



1 make demand of the garnishee for the goods and effects of the  
2 defendant secured in [~~his~~] the garnishee's hands, whose duty it  
3 will be to expose the same to be taken on execution, and also to  
4 make demand of the garnishee for the debt or wages secured in  
5 [~~his~~] the garnishee's hands or the moneys held by [~~him~~] the  
6 garnishee for safekeeping, or such part thereof as may satisfy  
7 the judgment. It shall be the duty of the garnishee to pay the  
8 same. If the garnishee has in any manner disposed of the goods  
9 and effects or does not expose and subject the same to be taken  
10 on execution, or if the garnishee does not pay to the [~~officer,~~]  
11 sheriff, deputy sheriff, or police officer when demanded, the  
12 debt or wages or moneys held for safekeeping, the garnishee  
13 shall be liable to satisfy the judgment out of [~~his~~] the  
14 garnishee's own estate, as [~~his~~] the garnishee's own proper  
15 debt, if the goods or effects or debt or wages or moneys held  
16 for safekeeping, be of sufficient value or amount and, if not,  
17 then to the value of the same; provided that every garnishee,  
18 whether summoned before or after judgment, shall be allowed to  
19 retain or deduct from the goods, effects, and credits of the  
20 defendant in [~~his~~] the garnishee's hands at the time of service  
21 all demands against the defendant of which [~~he~~] the garnishee  
22 could have availed [~~himself~~] the garnishee's self if [~~he~~] the



1 garnishee had not been garnisheed, whether the same are at the  
2 time due or not, and whether by setoff on a trial or by setoff  
3 of judgments or executions between [~~himself~~] the garnishee and  
4 the defendant, and shall be liable only for the balance after  
5 adjustment of all mutual demands between [~~himself~~] the garnishee  
6 and the defendant; provided that in such adjustment no demands  
7 for unliquidated damages for wrongs or injuries shall be  
8 included, and that the judgment shall show the amount of any  
9 setoff.

10 No garnishee shall be liable to anyone for the nonpayment  
11 of any sum or for the nondelivery of any goods or effects when  
12 the garnishee in good faith believes, or has reason to believe,  
13 that garnishment or other process affects the same, though such  
14 be not the case, but this paragraph shall not supersede section  
15 652-9 where the same are applicable."

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

18 "[~~§~~652-2.5[~~§~~] **Service on garnishee.** Service of the copy  
19 upon the garnishee may be made in any of the manners here  
20 described, namely:

21 (1) If the garnishee lives or has an office in the  
22 district in which process is issued, by the [~~servicing~~



1           ~~officer's]~~ sheriff, deputy sheriff, police officer, or  
2           independent civil process server from the department  
3           of public safety's list under section 353C-     handing  
4           a copy to the garnishee in person or leaving it in the  
5           garnishee's office in charge of some deputy or clerk  
6           or other employees or attache of the office; or

- 7           (2) If the garnishee lives in a district other than that  
8           in which the process was issued, by the [~~serving~~  
9           ~~officer's]~~ sheriff, deputy sheriff, police officer, or  
10           independent civil process server handing a copy to the  
11           garnishee in person, or by mailing it in a sealed  
12           envelope, registered or certified, postage prepaid,  
13           return receipt requested, and addressed to the  
14           garnishee's last known home or business address."

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

17           "(a) In case of service upon the garnishee, the [~~serving~~  
18           ~~officer's]~~ certificate of service or, if by mail, a copy of the  
19           return receipt provided by the sheriff, deputy sheriff, police  
20           officer, or independent civil process server from the department  
21           of public safety's list under section 353C-     shall be prima  
22           facie proof of the service."





1 SECTION 17. Section 652-5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§652-5 Successive sequestration of wages, upon change of  
4 employment. Whenever any judgment debtor has left the employ of  
5 any garnishee, against whom an order has been duly issued,  
6 before the full amount of the judgment has been paid, and has  
7 entered the employment of some other person, or of the State, or  
8 any political subdivision thereof, then the judgment creditor  
9 may sequester any wages due the judgment debtor from the new  
10 employer by filing with such person, or the respective  
11 government comptroller or other ~~[officer]~~ official a certified  
12 copy of the judgment and an affidavit of the judgment creditor,  
13 showing the amount remaining due and unpaid on account of the  
14 judgment.

15 Thereafter, the new garnishee shall proceed to pay the same  
16 percentages of wages as required in an original garnishment, on  
17 the balance of the judgment, from week to week or month to  
18 month, until the balance due, with legal interest, is fully  
19 paid; or until such employment of the judgment debtor ceases."

20 SECTION 18. Section 654-2, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§654-2 Bond. When the plaintiff desires the immediate  
2 delivery of the property, the plaintiff shall execute a bond to  
3 the defendant in possession of the property, and to all persons  
4 having an interest in the property, of such amount and with such  
5 sureties as are approved by the court, conditioned that the  
6 plaintiff will prosecute the plaintiff's action to judgment  
7 without delay, and deliver the property to the defendant in  
8 possession or any other person, if such delivery is adjudged,  
9 and pay all costs and damages that may be adjudged against the  
10 plaintiff. Upon the filing of the verified complaint or  
11 affidavit with the bond and a motion for immediate consideration  
12 of the matter, the court shall forthwith inquire into the  
13 matter, ex parte or otherwise, as in its discretion it  
14 determines. If thereupon the court finds that a prima facie  
15 claim for relief has been established, it shall issue an order  
16 directed to the sheriff, [~~or the~~] sheriff's deputy, [~~or the~~]  
17 chief of police, or an authorized police officer of any county[~~7~~  
18 ~~or a person authorized by the rules of court,~~] to take the  
19 property therein described and deliver the same to the  
20 plaintiff.

21           Copies of the verified complaint or affidavit, and, if a  
22 bond for immediate seizure has been filed, of the bond, and, if



1 an order for the taking has been issued on an ex parte hearing,  
2 of the order, shall forthwith be served upon the defendant in  
3 possession and each person having or claiming a possessory  
4 interest in the property, in the same manner as is provided for  
5 service of summons unless the party to be served has appeared in  
6 the action, in which case service may be made in the same manner  
7 as is provided for service of papers other than the summons. In  
8 a proper case, either before or after issuance of an order for  
9 the taking, the required service may be combined with the  
10 publication of the summons, in which event the giving of notice  
11 of the substance of the proceeding shall be sufficient.

12 Upon the application of any party, the proceeding shall be  
13 advanced and assigned for hearing at the earliest possible  
14 date."

15 SECTION 19. Section 666-11, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§666-11 Judgment; writ of possession. If it is proved to  
18 the satisfaction of the court that the plaintiff is entitled to  
19 the possession of the premises, the plaintiff shall have  
20 judgment for possession, and for the plaintiff's costs.

21 Execution shall issue accordingly. The writ of possession shall  
22 issue to the sheriff, deputy sheriff, police officer[, ~~or other~~



1 ~~person authorized by the rules of court of the circuit where the~~  
2 ~~premises are situated], or independent civil process server from~~  
3 ~~the department of public safety's list under section 353C-~~ ,  
4 commanding the sheriff, deputy sheriff, or police officer [~~or~~  
5 ~~other person authorized by the rules of court]~~ to remove all  
6 persons from the premises, and to put the plaintiff, or the  
7 plaintiff's agent, into the full possession thereof."

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

10 "(b) If the tenant is unable to comply with the court's  
11 order under subsection (a) in paying the required amount of rent  
12 to the court, the landlord shall have judgment for possession  
13 and execution shall issue accordingly. The writ of possession  
14 shall issue to the sheriff, deputy sheriff, police officer [~~or~~  
15 ~~other person authorized by the rules of court of the circuit~~  
16 ~~where the premises are situated], or independent civil process~~  
17 ~~server from the department of public safety's list under section~~  
18 ~~353C-~~ , ordering the sheriff, deputy sheriff, or police  
19 officer [~~or other person authorized by the rules of court]~~ to  
20 remove all persons and possessions from the premises, and to put  
21 the landlord, or the landlord's agent, into full possession of  
22 the premises."



1 SECTION 21. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 22. This Act shall take effect upon its approval  
4 and shall be repealed on June 30, 2015; provided that:

5 (1) Section 501-154, Hawaii Revised Statutes, in section 2  
6 of this Act;

7 (2) Section 603-29, Hawaii Revised Statutes, in section 3  
8 of this Act;

9 (3) Section 604-6.2, Hawaii Revised Statutes, in section 4  
10 of this Act;

11 (4) Section 607-4(d), Hawaii Revised Statutes, in section  
12 5 of this Act;

13 (5) The title and subsection (a) of section 607-8, Hawaii  
14 Revised Statutes, in section 6 of this Act;

15 (6) Section 633-8, Hawaii Revised Statutes, in section 7  
16 of this Act;

17 (7) The title and section 634-11, Hawaii Revised Statutes,  
18 in section 8 of this Act;

19 (8) Section 634-12, Hawaii Revised Statutes, in section 9  
20 of this Act;

21 (9) Section 634-22, Hawaii Revised Statutes, in section 10  
22 of this Act;



- 1 (10) Section 634-29, Hawaii Revised Statutes, in section 11  
2 of this Act;
- 3 (11) Section 651-1, Hawaii Revised Statutes, in section 12  
4 of this Act;
- 5 (12) Section 652-1.5(a), Hawaii Revised Statutes, in  
6 section 13 of this Act;
- 7 (13) The title and section 652-2, Hawaii Revised Statutes,  
8 in section 14 of this Act;
- 9 (14) Section 652-2.5, Hawaii Revised Statutes, in section  
10 15 of this Act;
- 11 (15) Section 652-2.6(a), Hawaii Revised Statutes, in  
12 section 16 of this Act;
- 13 (16) Section 652-5, Hawaii Revised Statutes, in section 17  
14 of this Act;
- 15 (17) Section 654-2, Hawaii Revised Statutes, in section 18  
16 of this Act;
- 17 (18) Section 666-11, Hawaii Revised Statutes, in section 19  
18 of this Act; and
- 19 (19) Section 666-21(b), Hawaii Revised Statutes, in section  
20 20 of this Act,  
21



- 1 shall be reenacted in the form in which they read on the day
- 2 prior to the effective date of this Act.



**Report Title:**

Department of Public Safety; Judiciary; Service of Process

**Description:**

Specifies the persons authorized to serve legal process.  
Mandates the Director of Public Safety to maintain a list of independent process servers. Shields the State and the Department of Public Safety from liability arising from the acts of independent process servers. (SD2)

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

