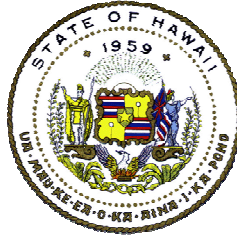


NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

TED SAKAI
INTERIM DIRECTOR

Martha Torney
Deputy Director of
Administration

Max Otani
Deputy Director
Corrections

Keith Kamita
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1280
A BILL FOR AN ACT RELATING TO
PUBLIC SAFETY

By

Ted Sakai, Interim Director
Department of Public Safety

House Committee on Public Safety
Representative Henry J.C. Aquino, Chair
Representative Kaniela Ing, Vice Chair

Thursday, February 14, 2013, 10:00 a.m.
State Capitol, Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of House Bill 1280 which proposes to form a working group to define and delineate the duties and responsibilities of process servers under its jurisdiction, create a process to obtain certification for the Sheriff Division from the Commission on Accreditation for Law Enforcement Agencies, Inc., to ensure that proper law enforcement policies and procedures are enacted and followed, create a process of registration for private process servicers in the state, and address other issues deemed relevant by the working group or by the Department of Public Safety. PSD; however, feels that this working group should also include a representative of the Department of Commerce and Consumer Affairs to address the licensing requirements and process. Existing statutes allow the courts to authorize individuals other than the police or sheriffs to serve process. Presently, private process servers are **not under the jurisdiction** or control of the Department of Public Safety and the Department is not inclined to expand its responsibility to encompass private process servers. The Department is willing to participate on

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this working group to assist in the licensing of private process servers similar to that of bail bondsmen and private investigators.

Thank you for the opportunity to testify on this matter.



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Public Safety

The Honorable Henry J.C. Aquino, Chair

The Honorable Kaniela Ing, Vice Chair

Thursday, February 14, 2013, 10:00 a.m.

State Capitol, Conference Room 309

WRITTEN TESTIMONY ONLY

by

Susan Pang Gochros

Chief Staff Attorney and Department Head

Intergovernmental and Community Relations

Bill No. and Title: House Bill No. 1280, Relating to Public Safety

Purpose: Requires the department of public safety to form a working group to define and delineate the duties and responsibilities of process servers under its jurisdiction, create a process to obtain certification for the sheriff division from the Commission on Accreditation for Law Enforcement Agencies, Inc., to ensure that proper law enforcement policies and procedures are enacted and followed, create a process of registration for process servicers in the state, and address other issues deemed relevant by the working group or by the department of public safety. Requires a report to the legislature.

Judiciary's Position:

The Judiciary supports this bill, particularly as it comes on the heels of bills proposing to mandate court authorization of civil process servers. As we have testified on those bills, we have concerns that requiring court authorization of civil process servers would create gridlock in our courts and would place upon the Judiciary a requirement that is not appropriate to its mission. Because the service of garnishment orders, writs of execution, attachment, possession and replevin and orders to show cause (collectively referred to as “writs”) are related to post-judgment activity, they are complicated, involved and often difficult processes. They involve



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House Committee on Public Safety
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Page 2

physically taking possession of one's personal property, or forcing removal of persons from property and other types of potentially time-consuming, drawn out and adversarial process.

Judges cannot realistically determine whether a particular process server is "authorized" without requisite criteria and/or a regulatory process to determine who is appropriate to serve in terms of both satisfying the criteria and also receiving the necessary training. Without a full understanding of the criteria, training and other issues, judges run the risk of either spending inordinate amounts of time ascertaining whether a particular person should be "authorized" to serve and enforce a writ; or, alternately, authorizing persons who may be ill-prepared or ill-suited for executing writs, thus resulting in potential safety and liability risks.

We believe that this bill presents a more reasoned alternative in establishing a working group to determine the duties and responsibilities of civil process servers and a process for obtaining certification for these process servers. We appreciate this approach, and welcome the opportunity to collaborate with the working group. We have concerns, however, that this will be a lengthy process and the law creates no immediate resolution for the present situation given that: (1) the Rules of Court specified in Act 142 are simply not applicable to the service of writs and may provide a false impression to the public that they are indeed applicable; and (2) the Department of Public Service is no longer providing a list of civil process servers and there is concern within the community as to who is "authorized" to serve writs under the law at this time.

Our only suggested change to the working group is that it also include representative(s) from the department of commerce and consumer affairs (DCCA), given that the registration and certification of process servers (like that of bondsmen, detectives and investigators regulated by statute) may best be accomplished through DCCA.

Thank you for the opportunity to provide comments on this measure.

ing2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 11, 2013 6:18 PM
To: pbstestimony
Cc: pamelapcm@gmail.com
Subject: *Submitted testimony for HB1280 on Feb 14, 2013 10:00AM*

HB1280

Submitted on: 2/11/2013

Testimony for PBS on Feb 14, 2013 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Williams	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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ing2-Brandon

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Sent: Monday, February 11, 2013 5:31 PM
To: pbstestimony
Cc: aurasaki@hawaiiantel.net
Subject: Submitted testimony for HB1280 on Feb 14, 2013 10:00AM

HB1280

Submitted on: 2/11/2013

Testimony for PBS on Feb 14, 2013 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments: Please support your state sheriffs, and their quest to building a first rate law enforcement agency.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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