
A BILL FOR AN ACT

RELATING TO JUDICIAL PROCESSES.

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

1 SECTION 1. Section 291E-38, Hawaii Revised Statutes, is
2 amended by amending subsection (g) to read as follows:

3 "(g) The sworn statements provided in section 291E-36
4 shall be admitted into evidence. The director shall consider
5 the sworn statements in the absence of the law enforcement
6 officer or other person. Upon written notice to the director,
7 no later than five days prior to the hearing, that the
8 respondent wishes to examine a law enforcement officer or other
9 person who made a sworn statement, the director shall issue a
10 subpoena for the officer or other person to appear at the
11 hearing. Personal service upon the law enforcement officer or
12 other person who made a sworn statement shall be made no later
13 than forty-eight hours prior to the hearing time. For purposes
14 of this subsection, "personal service" includes service where an
15 authorized process server provides a declaration stating that:

16 (1) The person for whom the subpoena was issued is an
17 employee of the United States Department of Defense;



- 1 (2) The process server has complied with applicable
2 federal statutes and armed service regulations; and
- 3 (3) On a specified date and at a specified time the
4 process server delivered the subpoena in accordance
5 with applicable federal statutes and armed service
6 regulations, and within the time limitations of this
7 subsection.

8 If the officer or other person cannot appear, the officer or
9 other person at the discretion of the director, may testify by
10 telephone."

11 SECTION 2. Section 802-5, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) When it shall appear to a judge that a person
14 requesting the appointment of counsel satisfies the requirements
15 of this chapter, the judge shall appoint counsel to represent
16 the person at all stages of the proceedings, including appeal,
17 if any. If conflicting interests exist, or if the interests of
18 justice require, the court may appoint private counsel, who
19 shall receive reasonable compensation for necessary expenses,
20 including travel, [~~the amount of which shall be determined by~~
21 ~~the court,~~] and reasonable fees pursuant to subsection (b). All
22 expenses and fees shall be ordered by the court. Duly ordered



1 payment shall be made upon vouchers approved by the director of
2 finance and warrants drawn by the comptroller.

3 (b) [~~The court shall determine the~~] The amount of
4 reasonable compensation to appointed counsel[7] shall be based
5 on the rate of \$90 an hour; provided that [the]:

6 (1) In the first judicial circuit, a three-member panel
7 shall be formed and shall meet at least once per month
8 to review and recommend to the criminal administrative
9 judge the amount of reasonable compensation to
10 appointed counsel. The members of the panel shall be
11 appointed by the chief justice and shall include:

12 (A) A judge of the first circuit;

13 (B) An attorney from the office of the public
14 defender; and

15 (C) An attorney who is a member of the state bar and
16 engaged in the private practice of law.

17 The administrative judge shall either accept or reject
18 the panel's recommendation. Neither the panel nor the
19 administrative judge shall reduce the amount of
20 compensation to appointed counsel without first
21 providing a written justification for the reduction
22 and unless the appointed counsel has been given an



1 opportunity to address the counsel's grievance to the
2 administrative judge; and

3 (2) In all judicial circuits other than the first circuit,
4 the court shall determine the amount of reasonable
5 compensation to appointed counsel; and

6 (3) The maximum allowable fee shall not exceed the
7 following schedule:

8 ~~[(1)]~~ (A) Any felony case \$6,000

9 ~~[(2)]~~ (B) Misdemeanor case - jury trial 3,000

10 ~~[(3)]~~ (C) Misdemeanor case - jury waived 1,500

11 ~~[(4)]~~ (D) Appeals 5,000

12 ~~[(5)]~~ (E) Petty misdemeanor case 900

13 ~~[(6)]~~ (F) Any other type of administrative

14 or judicial proceeding, including

15 cases arising under section

16 571-11(1), 571-14(a)(1),

17 or 571-14(a)(2) 3,000.

18 Payment in excess of any maximum provided for under

19 ~~[paragraphs (1) to (6)]~~ paragraph (3) may be made whenever the

20 panel or the administrative judge under paragraph (1) or the

21 court in which the representation was rendered under paragraph

22 (2), as applicable, certifies that the amount of the excess



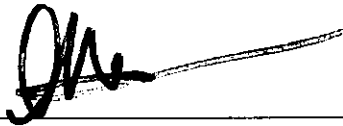
1 payment is necessary to provide fair compensation and the
2 payment is approved by the pertinent administrative judge [~~of~~
3 ~~that court~~]."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'JM', is written over a horizontal line.

JAN 23 2014



Report Title:

DUI Administrative Revocations; Service of Process to Federal Employees; Compensation of Appointed Counsel for Indigent Criminal Defendants

Description:

Facilitates service of process to federal DOD employees subpoenaed to appear at DUI administrative hearing to review an administrative revocation of a person's license and privilege to operate a vehicle. Amends the process within the first judicial circuit for determining reasonable compensation to appointed counsel for indigent criminal defendants by requiring a panel to make recommendations to the criminal administrative judge.

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

