

S.B. NO. 1182

JAN 24 2013

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 501-154, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§501-154 Writ of possession, service, time limit for**
4 **registration.** When in any action in the nature of an action of
5 ejectment an execution or writ of possession has been issued and
6 served by the [~~officer,~~] sheriff, deputy sheriff, police
7 officer, or other person authorized by the court the [~~officer~~]
8 sheriff, deputy sheriff, police officer, or other person
9 authorized by the court shall cause a copy of the writ, with a
10 return of the [~~officer's~~] doings of the sheriff, deputy sheriff,
11 police officer, or other person authorized by the court thereon,
12 to be filed and registered within three months after the service
13 and before the return of the writ into the clerk's office. The
14 plaintiff, in case the judgment was that the plaintiff was
15 entitled to an estate in fee simple in the demanded premises, or
16 in any part thereof, and for which execution or writ of

1 possession issued, is thereupon entitled to the entry of a new
2 certificate of title."

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

5 "**§603-29 Order to show cause.** Whenever a complaint has
6 been filed in circuit court alleging leased or rented personal
7 property the value of which is \$5,000 or more, has been retained
8 by the defendant fourteen days after the termination of the
9 lease or rental contract, either by passage of time or by reason
10 of any default under the terms and conditions of the lease or
11 rental contract, the plaintiff may petition the court for an
12 order to show cause.

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

1 personal property is not returned to the plaintiff prior to the
2 hearing, the defendant shall, if reasonably feasible, produce
3 the property at the hearing. If, at the hearing, it is proved
4 to the satisfaction of the court that the plaintiff is entitled
5 to possession of the leased or rented personal property, it
6 shall issue an order directed to the sheriff, deputy sheriff,
7 police officer, or person authorized by the [~~rules of~~] court,
8 commanding the sheriff, deputy sheriff, police officer, or other
9 person authorized by the [~~rules of~~] court to seize the personal
10 property therein described and to deliver the same to the
11 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 circuit courts, or by registered mail or by
14 certified mail with return receipt showing delivery within the
15 circuit."

16 SECTION 3. Section 604-6.2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§604-6.2 Order to show cause.** Upon the filing of a
19 complaint with a copy of a lease or rental contract and an
20 affidavit sworn to by the plaintiff or some competent affiant
21 setting forth a statement of facts sufficient to show that the
22 leased or rented personal property has been in the defendant's

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

1 courts, or by registered mail or by certified mail with return
2 receipt showing delivery within the State."

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

5 "(d) Fees of sheriff, deputy sheriff, police officer, or
6 other person authorized by the [~~rules of~~] court:

7 (1) For serving any criminal summons, warrant, attachment,
8 or other criminal process, \$30 effective July 1, 2001.
9 This fee is payable to a sheriff, deputy sheriff, or a
10 police officer. Service of criminal summons, warrant,
11 attachment, or other criminal process shall be made
12 only by persons authorized to serve criminal summons
13 [~~in accordance with rules of~~] by the court.

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.

1 (5) For serving: subpoena, \$25; and subpoena duces
2 tecum or garnishee summons, \$15 effective July 1,
3 2001.

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

6 (A) No allowance shall be made where the serving
7 individual uses a conveyance furnished the
8 serving individual by the State, or any political
9 or municipal subdivision thereof;

10 (B) Where the serving individual serves more than one
11 person in the course of one trip, the serving
12 individual shall not charge, in the aggregate for
13 all services, more than the mileage for the
14 entire trip; and

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

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1 sheriff, the chief of police, a person authorized
2 by the [~~rules of~~] court, or other serving
3 individual upon the island of service, who shall
4 make the service upon receipt of the process; and
5 the service shall be valid, notwithstanding that
6 the process may not be addressed to the
7 individual actually making the service or to the
8 individual's superior.

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

14 SECTION 5. Section 607-8, Hawaii Revised Statutes, is
15 amended by amending the title and subsection (a) to read as
16 follows:

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

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- 1 (1) No allowance shall be made where the serving
2 individual uses a conveyance furnished the serving
3 individual by the State, or any political or municipal
4 subdivision thereof; and
- 5 (2) Where the serving individual serves more than one
6 person in the course of one trip, the serving
7 individual shall not charge, in the aggregate for all
8 services more than the mileage for the entire trip;
9 and
- 10 (3) As far as practicable, in order to minimize the
11 mileage fees for the service, the sheriff or ~~[other]~~
12 chief of police of the serving officers, or other
13 person authorized by the ~~[rules of]~~ court where
14 service of process is to be made upon an island other
15 than that upon which is situated the court issuing the
16 process, shall cause the process to be transmitted to
17 the sheriff, deputy sheriff, the chief of police,
18 other person authorized by the ~~[rules of]~~ court, or
19 other serving individual upon the island of service
20 who shall make the service upon receipt of the
21 process; and the service shall be valid,
22 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~~] by the 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
15 person \$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.

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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 performing the service."

6 SECTION 6. Section 633-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§633-8 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 five 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, police officer, or other person
7 authorized by the [~~rules of~~] court commanding the sheriff,
8 deputy sheriff, police officer, or other person authorized by
9 the [~~rules of~~] court to seize the personal property therein
10 described and to deliver the same to the plaintiff or the
11 plaintiff's agent. Service of the order to show cause shall be
12 as provided by law or rule of court for cases in the district
13 courts, or by registered mail or by certified mail with return
14 receipt showing delivery within the circuit."

15 SECTION 7. Section 634-11, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§634-11 Interpleader; application for order by sheriff,**
18 **chief of police, or other person authorized by the [~~rules of~~**
19 **court.** When, in the execution of process against goods and
20 chattels issued by or under the authority of the courts of the
21 State, by reason of claims made to such goods and chattels by
22 assignees of bankrupts and other persons not being the parties

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

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

3 "**§634-12 Sale of property seized on execution, when.** When
4 goods or chattels have been seized in execution by the sheriff,
5 deputy sheriff, ~~[ether]~~ police officer, or other person
6 authorized by the ~~[rules of]~~ court, under process of any court,
7 and some third person claims to be entitled under a bill of
8 sale, chattel mortgage, or otherwise, to the goods and chattels
9 by way of security for a debt, the court or a judge may order a
10 sale of the whole or part thereof, upon such terms as to the
11 payment of the whole or part of the secured debt or otherwise as
12 it or the judge shall think fit; and may direct the application
13 of the proceeds of sale in such manner and upon such terms as to
14 the court or judge may seem just."

15 SECTION 9. Section 634-22, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§634-22 Return.** In all cases where any process or order
18 of a court is served by any officer of the court or of the
19 police force or the sheriff, deputy sheriff, other person
20 authorized by the court, or any investigator appointed and
21 commissioned by the director of commerce and consumer affairs
22 pursuant to section 26-9(j), a record thereof shall be endorsed

1 upon the back of the process, complaint, order, or citation.
2 The record shall state the name of the person served and the
3 time and place of service and shall be signed by the sheriff,
4 deputy sheriff, or police officer making the service. If the
5 sheriff, deputy sheriff, or police officer fails to make
6 service, the [~~officer,~~] sheriff, deputy sheriff, or police
7 officer in like manner, shall endorse the reason for the
8 officer's failure and sign this record. When service is made by
9 a person specially appointed by the court, or a person
10 authorized by the [~~rules of~~] court, the person shall make
11 affidavit of that service.

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

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

19 "**§651-1 General provisions.** This chapter shall apply to
20 circuit and district courts. A judge of any court of record may
21 make any order at chambers which may by the provisions of this
22 chapter be made by the court in term time. When the proceedings

1 are before a district judge, the judge shall be regarded as the
2 clerk of the court for all purposes contemplated herein. The
3 phrase "police officer", as used in this chapter, means the
4 director of public safety or the director's duly authorized
5 representative, any chief of police or subordinate police
6 officer, or a person authorized by the [~~rules of~~] court.
7 Nothing in this chapter shall be construed to permit a district
8 judge to issue a writ of attachment to be served out of the
9 circuit in which the judge's court is situated, or to permit an
10 attachment of real estate, or any interest therein, under a writ
11 issued by a district court judge."

12 SECTION 11. Section 652-1.5, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

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

- 18 (1) An application, directed to the court to which such
19 action is made returnable, for garnishee process to
20 issue under section 652-1(a);
21 (2) An affidavit sworn to by the creditor or some
22 competent affiant setting forth a statement of facts

1 sufficient to show that probable validity exists to
2 sustain the validity of the creditor's claim;
3 (3) An order that a hearing be held before the court or a
4 judge thereof to determine whether or not the
5 garnishee process should be granted and that notice of
6 such hearing be given to the defendant debtor;
7 (4) A summons directed to [~~a proper officer~~] the sheriff,
8 deputy sheriff, police officer, or other person
9 authorized by the court commanding the [~~officer~~]
10 sheriff, deputy sheriff, police officer, or other
11 person authorized by the court to serve upon the
12 debtor at least four days prior to the date of the
13 hearing, pursuant to chapter 634, the application, a
14 true and attested copy of the petition, summons, and
15 direction, the affidavit, and the order and notice of
16 hearing."

17 SECTION 12. Section 652-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§652-2 Garnishee, rights, duties; collection by [~~levying~~**
20 **~~officer.~~] sheriff, deputy sheriff, police officer, or other**
21 **person authorized by the court.** The garnishee shall, when

1 summoned before judgment rendered against his principal, if he
2 desires, be admitted to defend his principal in the action.

3 If judgment is rendered in favor of the plaintiff, and
4 likewise in all cases in which the garnishee is summoned after
5 judgment, the garnishee fund, or such part thereof as may be
6 sufficient for that purpose, shall be liable to pay the same.
7 The plaintiff on praying out execution shall be entitled to have
8 included in the execution an order directing the [~~officer~~]
9 sheriff, deputy sheriff, police officer, or other person
10 authorized by the court serving the same to make demand of the
11 garnishee for the goods and effects of the defendant secured in
12 his hands, whose duty it will be to expose the same to be taken
13 on execution, and also to make demand of the garnishee for the
14 debt or wages secured in his hands or the moneys held by him for
15 safekeeping, or such part thereof as may satisfy the judgment.
16 It shall be the duty of the garnishee to pay the same. If the
17 garnishee has in any manner disposed of the goods and effects or
18 does not expose and subject the same to be taken on execution,
19 or if the garnishee does not pay to the [~~officer,~~] sheriff,
20 deputy sheriff, police officer, or other person authorized by
21 the court, when demanded, the debt or wages or moneys held for
22 safekeeping, the garnishee shall be liable to satisfy the

1 judgment out of his own estate, as his own proper debt, if the
2 goods or effects or debt or wages or moneys held for
3 safekeeping, be of sufficient value or amount and, if not, then
4 to the value of the same; provided that every garnishee, whether
5 summoned before or after judgment, shall be allowed to retain or
6 deduct from the goods, effects, and credits of the defendant in
7 his hands at the time of service all demands against the
8 defendant of which he could have availed himself if he had not
9 been garnisheed, whether the same are at the time due or not,
10 and whether by setoff on a trial or by setoff of judgments or
11 executions between himself and the defendant, and shall be
12 liable only for the balance after adjustment of all mutual
13 demands between himself and the defendant; provided that in such
14 adjustment no demands for unliquidated damages for wrongs or
15 injuries shall be included, and that the judgment shall show the
16 amount of any setoff.

17 No garnishee shall be liable to anyone for the nonpayment
18 of any sum or for the nondelivery of any goods or effects when
19 the garnishee in good faith believes, or has reason to believe,
20 that garnishment or other process affects the same, though such
21 be not the case, but this paragraph shall not supersede section
22 652-9 where the same are applicable."

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1 SECTION 13. Section 652-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

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

6 (1) If the garnishee lives or has an office in the
7 district in which process is issued, by the [~~servicing~~
8 ~~officer's~~] sheriff, deputy sheriff, police officer, or
9 other person authorized by the court handing a copy to
10 the garnishee in person or leaving it in the
11 garnishee's office in charge of some deputy or clerk
12 or other employees or attache of the office; or

13 (2) If the garnishee lives in a district other than that
14 in which the process was issued, by the [~~servicing~~
15 ~~officer's~~] sheriff, deputy sheriff, police officer, or
16 other person authorized by the court handing a copy to
17 the garnishee in person, or by mailing it in a sealed
18 envelope, registered or certified, postage prepaid,
19 return receipt requested, and addressed to the
20 garnishee's last known home or business address."

21 SECTION 14. Section 652-2.6, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 "(a) In case of service upon the garnishee, the [~~servicing~~
2 ~~officer's~~] certificate of service or, if by mail, a copy of the
3 return receipt provided by the sheriff, deputy sheriff, police
4 officer, or other person authorized by the court shall be prima
5 facie proof of the service."

6 SECTION 15. Section 652-5, Hawaii Revised Statutes, is
7 amended to read as follows:

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

20 Thereafter, the new garnishee shall proceed to pay the same
21 percentages of wages as required in an original garnishment, on
22 the balance of the judgment, from week to week or month to

1 month, until the balance due, with legal interest, is fully
2 paid; or until such employment of the judgment debtor ceases."

3 SECTION 16. Section 654-2, Hawaii Revised Statutes, is
4 amended to read as follows:

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

1 property therein described and deliver the same to the
2 plaintiff.

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

16 Upon the application of any party, the proceeding shall be
17 advanced and assigned for hearing at the earliest possible
18 date."

19 SECTION 17. Section 666-11, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§666-11 Judgment; writ of possession.** If it is proved to
22 the satisfaction of the court that the plaintiff is entitled to

1 the possession of the premises, the plaintiff shall have
2 judgment for possession, and for the plaintiff's costs.
3 Execution shall issue accordingly. The writ of possession shall
4 issue to the sheriff, deputy sheriff, police officer, or other
5 person authorized by the [~~rules of~~] court of the circuit where
6 the premises are situated, commanding the sheriff, deputy
7 sheriff, police officer, or other person authorized by the
8 [~~rules of~~] court to remove all persons from the premises, and to
9 put the plaintiff, or the plaintiff's agent, into the full
10 possession thereof."

11 SECTION 18. Section 666-21, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) If the tenant is unable to comply with the court's
14 order under subsection (a) in paying the required amount of rent
15 to the court, the landlord shall have judgment for possession
16 and execution shall issue accordingly. The writ of possession
17 shall issue to the sheriff, deputy sheriff, police officer, or
18 other person authorized by the [~~rules of~~] court of the circuit
19 where the premises are situated, ordering the sheriff, deputy
20 sheriff, police officer, or other person authorized by the
21 [~~rules of~~] court to remove all persons and possessions from the

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1 premises, and to put the landlord, or the landlord's agent, into
2 full possession of the premises."

3 SECTION 19. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 20. This Act shall take effect upon its approval.

6

7

8

INTRODUCED BY:

Amor Mercado K.

9

BY REQUEST

10

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Report Title:

Department of Public Safety; Judiciary: Service of Process

Description:

Update the statutes to authorize persons authorized by the courts to serve legal process.

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

JUSTIFICATION SHEET

SB. NO. 1182

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO THE SERVICE OF PROCESS.

PURPOSE: Update statutes to authorize persons authorized by the courts to serve legal process.

MEANS: Amend sections 501-154, 603-29, 604-6.2, 607-4(d), 607-8 title and (a), 633-8, 634-11, 634-12, 634-22, 651-1, 652-1.5(a), 652-2, 652-2.5, 652-2.6(a), 652-5, 654-2, 666-11, and 666-21(b), Hawaii Revised Statutes.

JUSTIFICATION: Proposed amendments to these sections will accomplish the following:

The statutes to be amended specify that only the sheriff, deputy sheriffs, or other officers may serve certain types of process. To assist the courts, the Department has been accommodating the need for private process servers under these statutes by maintaining a list of such servers. Updating the Hawaii Revised Statutes to allow not just sheriffs but persons authorized by the court to serve all types of process and writs except criminal will not only expand the market for such services but also allow the Department to use its resources more efficiently and focus on protecting the public.

Impact on the public: The public will be better served by having more choices for service of civil process and by having civil process servers comply with the requirements of the court.

Impact on the Department and other agencies: These amendments will better regulate private process servers under the direction of the courts.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

None.

OTHER AFFECTED
AGENCIES:

Department of Public Safety and
Judiciary.

EFFECTIVE DATE:

Upon approval.