

JAN 23 2015

A BILL FOR AN ACT

RELATING TO SERVICE BY PUBLICATION.

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

1 SECTION 1. The legislature finds that the manner by which
2 a summons is published within the State for civil actions should
3 be consistent with how notices are published as required by
4 other provisions of the Hawaii Revised Statutes.

5 Accordingly, the purpose of this Act is to specify the
6 manner by which a summons is published for civil actions within
7 the State.

8 SECTION 2. Chapter 634, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§634- Service by publication. (a) When service of a
12 summons is required by law, court rule, or court order, and
13 service of the summons on a defendant by personal delivery or by
14 certified, registered, or express mail is not successful despite
15 a reasonable attempt, and if the facts shall appear by
16 affidavit, declaration, or otherwise to the satisfaction of the



1 court, the court may order that service of the summons be made
2 by publication:

3 (1) In a newspaper published in the State and having a
4 general circulation in the circuit in which the action
5 has been filed. The summons shall be published once
6 each week for three consecutive weeks, which shall
7 constitute three publications. The third publication
8 shall be at least twenty-one days before the return
9 date stated in the summons; or

10 (2) On a state website at the discretion of the agency
11 that maintains the website, in a manner and for such
12 time as the court may order, but at least twenty-one
13 days before the return date stated in the summons;
14 provided that the summons shall also be published at
15 least once in a newspaper described in paragraph (1)
16 at least twenty-one days before the return date.

17 (b) As used in this section, "general circulation" refers
18 to a newspaper that:

19 (1) Contains news of a general nature; and

20 (2) Is distributed within the circuit in which the action
21 has been filed:



- 1 (A) At least weekly;
- 2 (B) For a minimum of one year unless interrupted by
3 strike, natural disaster, or act of war or
4 terror; and
- 5 (C) To a minimum of 3 per cent of the residents of
6 the circuit, as determined by the last decennial
7 United States census and as verified by an
8 independent audit."

9 SECTION 3. Section 634-36, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§634-36 Manner of service under sections 634-33 to 35.**
12 When service of summons is provided for by section 634-33, 634-
13 34, or 634-35, service shall be made by service upon the
14 defendant personally by any person authorized to serve process
15 in the place in which the defendant may be found or appointed by
16 the court for the purpose, or sent by certified, registered, or
17 express mail, postage prepaid, with return receipt requested, by
18 the plaintiff or the plaintiff's attorney to the defendant. The
19 plaintiff or the plaintiff's attorney shall file the return of
20 the serving officer or an affidavit showing that the copy of
21 summons and complaint were served as aforesaid or sent by



1 certified, registered, or express mail as aforesaid, and in the
 2 latter case the return receipt signed by the defendant shall be
 3 filed with the affidavit. The service shall be complete upon
 4 delivery of the required papers to the defendant outside the
 5 State, personally or by mail as provided.

6 ~~[If the defendant cannot be found to serve or mail the~~
 7 ~~summons and the facts shall appear by affidavit or otherwise to~~
 8 ~~the satisfaction of the court, it may order that service be made~~
 9 ~~by publication of summons in at least one newspaper published in~~
 10 ~~the State and having a general circulation in the circuit in~~
 11 ~~which the action has been instituted, in such manner and for~~
 12 ~~such time as the court may order, but not less than once each~~
 13 ~~week in four successive weeks, the last publication to be not~~
 14 ~~less than twenty one days prior to the return date stated~~
 15 ~~therein unless a different time is prescribed by order of the~~
 16 ~~court.] "~~

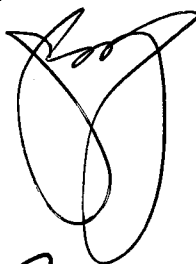
17 SECTION 4. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY: Randy L. Beck
Michelle Solani Will Lyro
Clarence W. Fickler

S.B. NO. 758

Francis M. Oakland



Paul E. Poirer

James L. ...
NC. Sub-App



S.B. NO. 758

Report Title:

Civil Actions; Service of Process; Service by Publication;
Newspaper; Website

Description:

Specifies that the method of service of process for all civil cases under chapter 634, Hawaii Revised Statutes, when personal service is unsuccessful, shall include publication in a newspaper of general circulation three times or publication on a state website together with publication in a newspaper of general circulation once.

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