

**"CHAPTER 603
CIRCUIT COURTS**

Part I. Circuits and Judges

Section

- 603-1 Judicial circuits
- 603-2 Title
- 603-3 First circuit court judges
- 603-4 Other circuits; judges
- 603-5 Salary of circuit court judges
- 603-6 Residence of judge
- 603-7 Repealed

Part II. Sessions

- 603-11 Separate sessions at same time
- 603-12 Sessions, held where
- 603-13 Repealed
- 603-14 Place of trial; signature of judge
- 603-15 Repealed
- 603-16 Continuance of hearing or trial
- 603-17 Repealed

Part III. Jurisdiction and Powers

- 603-21 Repealed
- 603-21.5 General
- 603-21.6 Probate
- 603-21.7 Nonjury cases
- 603-21.8 Appeals
- 603-21.9 Powers
- 603-22 Repealed
- 603-23 Injunction of violation of laws and ordinances
- 603-23.5 Action to enjoin violation of section 708-871;
action for damages
- 603-24 to 28 Repealed
- 603-29 Order to show cause

Part IV. Venue

- 603-36 Actions and proceedings, where to be brought
- 603-37 Change of venue
- 603-37.5 Cure or waiver of defects

Part V. Assignment to Another Circuit; Temporary
Assignment of Retired Circuit Judges

- 603-41 When judge may be required to preside in another
circuit; temporary assignment of retired circuit
judges
- 603-42 Repealed

Part VI. Rent Control Appeals--Repealed
603-46 Repealed

Note

As to procedural statutes superseded by the rules of the court, see note preceding Title 32.

Cross References

Intermediate sanctions for selected offenders and defendants, see §§353-10.5, 353-63.5, and 706-605.1.

Rules of Court

See generally Hawaii Rules of Civil Procedure; Hawaii Rules of Penal Procedure; Hawaii Court Records Rules; Hawaii Electronic Filing and Service Rules.

Law Journals and Reviews

Settling Civil Lawsuits in the Hawaii Circuit Courts. 10 HBJ, no. 13, at 1 (2007).

Electronic Discovery: A Call for a New Rules Regime for the Hawai'i Courts. 32 UH L. Rev. 153 (2009).

Report on the Success of the Maui/Molokai Adult Drug Court: Proven Successful, the New Paradigm for our Criminal Justice System? 34 UH L. Rev. 423 (2012).

"PART I. CIRCUITS AND JUDGES

§603-1 Judicial circuits. The State is divided into four judicial circuits, as follows:

- (1) The first judicial circuit is the island of Oahu and all other islands belonging to the State not hereinafter mentioned;
- (2) The second judicial circuit includes the islands of Maui, Molokai, Lanai, Kahoolawe, and Molokini;
- (3) The third judicial circuit is the island of Hawaii;
- (4) The fifth judicial circuit includes the islands of Kauai and Niihau. [L 1892, c 57, §29; am L 1913, c 34, §1; RL 1925, §2234; RL 1935, §3630; am L 1943, c 141, §1(a); RL 1945, §9631; RL 1955, §215-1; HRS §603-1; am L 1994, c 103, §1]

Cross References

These circuits as "districts" within meaning of Const. art. I, §14, see §806-17.

" **§603-2 Title.** There shall be established in each of the judicial circuits of the State a court with the powers and under the conditions hereinafter set forth, which shall be styled the circuit court of such circuit, as, for instance, the circuit court of the third circuit. [L 1892, c 57, pt of §30; RL 1925, §2235; RL 1935, §3631; RL 1945, §9632; RL 1955, §215-2; HRS §603-2]

Rules of Court

Acts or proceedings outside the circuit, see HRCP rules 77(b), 82.

Case Notes

Prior to statehood, circuit court not a court of the United States within meaning of Norris-La Guardia Act. 37 H. 404 (1946).

As to whether extra-territorial jurisdiction may be exercised, see 46 H. 197, 377 P.2d 609 (1962).

" **§603-3 First circuit court judges.** Effective July 1, 1992, the circuit court of the first circuit shall consist of twenty-five judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, and twenty-fifth judge, respectively. [L 1892, c 57, pt of §30; RL 1945, §9633; am L 1945, c 142, §1; am L 1951, c 26, §1; am L 1953, c 129, §1; RL 1955, §215-3; am L 1959, c 223, §1; am L 1965, c 216, §1 and c 232, §1; HRS §603-3; am L 1972, c 88, §3(a); am L 1978, c 177, §1; am L 1982, c 214, §1; am L 1992, c 4, §1 and c 253, §3]

" **§603-4 Other circuits; judges.** The circuit court of the fifth circuit shall consist of two judges, who shall be styled as first and second judge, and each as a judge of the circuit court of the fifth circuit. The circuit court of the second circuit shall consist of four judges, who shall be styled as first, second, third, and fourth judge, and each as a judge of the circuit court of the second circuit. The circuit court of the third circuit shall consist of four judges, who shall be styled as first, second, third, and fourth judge, and each as a judge of the circuit court of the third circuit. [L 1892, c 57,

pt of §30; RL 1925, §2240; RL 1935, §3636; RL 1945, §9634; RL 1955, §215-4; am L 1957, c 259, §1; HRS §603-4; am L 1972, c 88, §3(b); am L 1976, c 56, §1; am L 1981, c 133, §1; am L 1982, c 214, §2; am L 2000, c 53, §1; am L 2002, c 196, §1]

" **§603-5 Salary of circuit court judges.** Effective July 1, 2004, the salary of a circuit court judge shall be as last recommended by the judicial salary commission. Effective July 1, 2007, and every six years thereafter, the salary of each circuit court judge of the various circuit courts of the State shall be as last recommended by the commission on salaries pursuant to section 26-56, unless disapproved by the legislature. [L Sp 1959 1st, c 4, §2; am L 1962, c 28, §30b; am L 1965, c 223, §13; Supp, §215-4.5; HRS §603-5; am L 1969, c 127, §11; am L 1975, c 58, §27; am L 1982, c 129, §26; am L 1986, c 128, §24; am L 1990, c 72, §5; am L 1999, c 65, §6; am L 2000, c 2, §4; am L 2003, c 123, §4; am L 2006, c 299, §9]

Cross References

Appointment, tenure, removal, retirement, see Const. art. VI, §§3, 5.

Retirement allowance, see §88-74.

Case Notes

Cited: 57 H. 348, 555 P.2d 1329 (1976).

" **§603-6 Residence of judge.** Every judge of a circuit court shall reside in the circuit for which the judge is appointed. [L 1892, c 57, pt of §30; RL 1925, §2242; RL 1935, §3638; RL 1945, §9636; RL 1955, §215-6; HRS §603-6; gen ch 1985]

" **§603-7 REPEALED.** L 1972, c 88, §3(t).

"PART II. SESSIONS

Note

Part heading amended by L 1972, c 88, §3(c).

§603-11 Separate sessions at same time. There may be one session of the circuit court of any circuit, or separate

sessions of the court at the same time, each of which may be held by one, but not more than one, of the judges of the circuit court of that circuit or any other circuit judge who may be authorized to preside in that circuit. Judgments, decrees, orders, and proceedings of any session held by any one of the judges shall be as effective as if only one session was held at a time. [L 1892, c 57, pt of §30; am L 1903, c 32, §7; RL 1925, §2241; RL 1935, §3637; RL 1945, §9635; RL 1955, §215-5; HRS §603-11; am L 1972, c 88, §3(d)]

" **§603-12 Sessions, held where.** Except as otherwise provided by statute, the sessions of the circuit courts shall be held as follows: In the first circuit, at Honolulu; in the second circuit, at Wailuku; in the third circuit, at Hilo and Kona; in the fifth circuit, at Lihue. [L 1892, c 57, §31; am L 1895, c 6, §1; am L 1903, c 32, §8; am L 1905, c 34, §1 and c 56, §1; am L 1907, c 50, §1; am L 1911, c 126, §1; am L 1917, c 49, §1; am L 1919, c 27, §1; am L 1921, c 77, §1; RL 1925, §2244; RL 1935, §3640; am L 1943, c 141, §1(b); RL 1945, §9638; RL 1955, §215-8; HRS §603-12; am L 1972, c 88, §3(e); am L 1982, c 3, §1]

Rules of Court

As to where acts or proceedings may take place, see HRCP rules 77(b), 82.

Case Notes

All sessions in term cases of first circuit court must be held in Honolulu; parties' consent cannot confer extra-territorial jurisdiction. 46 H. 197, 377 P.2d 609 (1962).

" **§603-13 REPEALED.** L 1972, c 88, §3(t).

" **§603-14 Place of trial; signature of judge.** (a) A jury trial shall be conducted in the circuit in which the case is pending, at the place designated by section 603-12 or at such other place or places within the circuit as may be designated by the chief justice from time to time.

(b) For the trial of cases which do not require a jury the circuit court may hold sessions at any place within the circuit with the same effect as if held at the place designated by section 603-12.

(c) In any ex parte proceeding, or any other civil proceeding upon consent of all the parties who have appeared in the case, the circuit court may in its discretion, if the attendance of a jury is not required, hold sessions at which witnesses may be heard and evidence adduced and argument presented, at any place within the State without the boundaries of the circuit with the same effect as if held at the place designated by section 603-12, and for the purpose of such sessions may use the services of the clerk and reporter of the circuit court of the circuit within which the sessions are held, and may require stipulations between the parties as to the payment of costs of transportation and other special costs arising out of the fact that the sessions are held at a place other than that designated by section 603-12, as a condition of holding the sessions.

(d) Any decision, order, decree, judgment, or any other document requiring the signature of a circuit judge, in any cause or proceeding whatsoever in a circuit court, may be signed without, as well as within, the boundaries of the circuit in which the court is situated. [L 1892, c 57, §33; RL 1925, §2246; RL 1935, §3642; am L 1943, c 141, §1(c); RL 1945, §9640; am L 1947, c 134, §1; RL 1955, §215-10; am L 1959, c 201, §1; HRS §603-14; am L 1972, c 88, §3(f)]

Rules of Court

As to when courts deemed open, see HRCP rule 77(a) and HRPP rule 56.

As to where acts or proceedings may take place, see HRCP rules 77(b), 82.

Case Notes

"Trial" within the meaning of this section does not include appeal from magistrate on points of law. 24 H. 12, 14 (1917).
Cited: 26 H. 667, 671 (1922).

" **§603-15 REPEALED.** L 1982, c 8, §1.

" **§603-16 Continuance of hearing or trial.** If the judge of any circuit court, or any other circuit judge authorized to preside in the circuit, fails to attend any trial or hearing at the time appointed, a clerk thereof shall continue any case or matter then before the court for trial or hearing, from time to time, until the attendance of one of the circuit judges; but no

such continuance shall be for a longer period than seven days, except as otherwise ordered by the court. [L 1892, c 57, §46; RL 1925, §2255; RL 1935, §3652; RL 1945, §9644; am L 1947, c 220, §1; RL 1955, §215-14; HRS §603-16; am L 1972, c 88, §3(h)]

" **§603-17 REPEALED.** L 1972, c 88, §3(t).

"PART III. JURISDICTION AND POWERS

Law Journals and Reviews

Report on the Success of the Maui/Molokai Adult Drug Court: Proven Successful, the New Paradigm for our Criminal Justice System? 34 UH L. Rev. 423 (2012).

§603-21 REPEALED. L 1972, c 88, §3(t).

" **§603-21.5 General.** (a) The several circuit courts shall have jurisdiction, except as otherwise expressly provided by statute, of:

- (1) Criminal offenses cognizable under the laws of the State, committed within their respective circuits or transferred to them for trial by change of venue from some other circuit court;
- (2) Actions for penalties and forfeitures incurred under the laws of the State;
- (3) Civil actions and proceedings, in addition to those listed in sections 603-21.6, 603-21.7, and 603-21.8; and
- (4) Actions for impeachment of county officers who are subject to impeachment.

(b) The several circuit courts shall have concurrent jurisdiction with the family court over:

- (1) Any felony under section 571-14, violation of an order issued pursuant to chapter 586, or a violation of section 709-906 when multiple offenses are charged through complaint or indictment and at least one other offense is a criminal offense under subsection (a)(1);
- (2) Any felony under section 571-14 when multiple offenses are charged through complaint or indictment and at least one other offense is a violation of an order issued pursuant to chapter 586, a violation of section 709-906, or a misdemeanor under the jurisdiction of section 604-8;
- (3) Any violation of section 711-1106.4; and

- (4) Guardianships and related proceedings concerning incapacitated adults pursuant to article V of chapter 560. [L 1972, c 88, §3(i); am L 1998, c 64, §2; am L 2004, c 18, §2 and c 161, §33; am L 2008, c 107, §2]

Revision Note

Subsection (b)(4) redesignated pursuant to §23G-15.

Cross References

Family court a division of circuit court, see §571-3.
Jurisdiction of family court, see chapter 571.

Rules of Court

Classification of proceedings, see RCC rule 1.

Law Journals and Reviews

Report on the Success of the Maui/Molokai Adult Drug Court: Proven Successful, the New Paradigm for our Criminal Justice System? 34 UH L. Rev. 423 (2012).

Case Notes

Where Congress has not expressly set out exclusive jurisdiction, state courts are competent to decide federal claims. 437 F. Supp. 368 (1977).

Where plea of not guilty and demand for jury trial by defendant charged with a misdemeanor conferred jurisdiction on circuit court, withdrawal of such plea and of demand for jury trial does not divest circuit court of jurisdiction. 55 H. 394, 520 P.2d 427 (1974).

Although misdemeanors are normally tried in district court, such offenses are within jurisdiction of circuit court. 59 H. 92, 576 P.2d 1044 (1978).

Court has jurisdiction over all civil causes of action unless precluded by state constitution or statute. 63 H. 55, 621 P.2d 346 (1980).

Regardless of whether a jury trial is demanded, circuit court may properly exercise jurisdiction over DUI cases; both the circuit and district courts have concurrent jurisdiction over DUI cases. 78 H. 367, 893 P.2d 795 (1995).

Circuit court had jurisdiction under this section to consider attorney general's request for declaratory judgment and related injunctions regarding proposed constitutional amendments where

not precluded by Hawaii constitution or other statute. 84 H. 179, 932 P.2d 316 (1997).

Circuit court had subject matter jurisdiction over the case where county's first amended complaint asserted jurisdiction pursuant to this section, which provided the independent jurisdictional basis for the action brought pursuant to §603-23. 115 H. 15, 165 P.3d 916 (2007).

As the doctrine of abatement did not apply, the trial court did not lack subject matter jurisdiction over the second condemnation proceeding because the first condemnation proceeding had not been resolved at the time the second condemnation proceeding was adjudicated by the court. 119 H. 352, 198 P.3d 615 (2008).

Circuit court was statutorily authorized, in aid of its original jurisdiction over mortgage foreclosure actions, to enter appropriate orders against successful bidder at a judicial foreclosure sale after successful bidder defaulted on agreement to purchase the mortgaged property at the foreclosure sale. 96 H. 348 (App.), 31 P.3d 205 (2001).

Relevant statutes, rules, and precedent did not permit wife to directly attack in circuit court the validity of the property and distribution part of the divorce decree; circuit court did not have subject matter jurisdiction to do what wife must have had done to obtain the relief wife sought; pursuant to §§580-1 and 580-47, only the family court could have granted that relief. 101 H. 370 (App.), 68 P.3d 644 (2003).

" **§603-21.6 Probate.** The several circuit courts shall have power to:

- (1) Grant probate of wills;
- (2) Appoint personal representatives;
- (3) Determine the heirs at law or devisees of deceased persons and to decree the distribution of decedents' estates;
- (4) Appoint guardians for incapacitated adults;
- (5) Appoint conservators;
- (6) Compel personal representatives and such guardians and conservators to perform their respective trusts and to account in all respects for the discharge of their official duties;
- (7) Remove any personal representative or any such guardian or conservator; and
- (8) Do all other things as provided in chapter 560. [L 1972, c 88, §3(j); am L 1976, c 200, pt of §1; am L 2004, c 161, §34]

Rules of Court

See Hawaii Probate Rules.

Case Notes

Cited: 77 H. 251 (App.), 883 P.2d 673 (1994).

" **§603-21.7 Nonjury cases.** The several circuit courts shall have jurisdiction, without the intervention of a jury except as provided by statute, as follows:

- (1) Of actions or proceedings:
 - (A) For the determination and declaration of heirs of deceased persons, which jurisdiction shall be in addition to the probate jurisdiction of the court;
 - (B) For the admeasurement of dower and curtesy, or the partition of real estate; and
 - (C) For the enforcement and regulation of the execution of trusts, whether the trusts relate to real or personal estate; for the foreclosure of mortgages; and for the specific performance of contracts; provided that, except when a different provision is made, they shall have original and exclusive jurisdiction of all other cases in the nature of suits in equity, according to the usages and principles of courts of equity; and
- (2) Of actions or proceedings in or in the nature of habeas corpus, prohibition, mandamus, quo warranto, and all other proceedings in or in the nature of applications for writs directed to courts of inferior jurisdiction, to corporations and individuals, as may be necessary to the furtherance of justice and the regular execution of the law. [L 1972, c 88, §3(k); am L 2016, c 55, §18]

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCPC rule 81(a)(7), (f), (g), (h).

Writ of mandamus abolished, exceptions, relief how obtained, see HRCPC rule 81.1.

Case Notes

Criminal nature of act will not prevent injunctive relief where such relief is otherwise appropriate. 52 H. 427, 478 P.2d 320 (1970).

Both circuit court and supreme court have concurrent original jurisdiction in prohibition. 59 H. 224, 580 P.2d 49 (1978).

Granting of equitable relief is within sound discretion of trial court; scope of review of findings of fact. 59 H. 491, 583 P.2d 971 (1978).

Jurisdiction to set aside deed on ground of forgery. 59 H. 648, 586 P.2d 1015 (1978).

District courts have no equity jurisdiction because same is reserved to circuit courts. 9 H. App. 169, 828 P.2d 1287 (1992).

Cited: 77 H. 251 (App.), 883 P.2d 673 (1994).

" **§603-21.8 Appeals.** The several circuit courts shall have jurisdiction of all causes that may properly come before them on any appeal allowed by law from any other court or agency. [L 1972, c 88, §3(1)]

" **§603-21.9 Powers.** The several circuit courts shall have power:

- (1) To make and issue all orders and writs necessary or appropriate in aid of their original or appellate jurisdiction;
- (2) To administer oaths;
- (3) To compel the attendance of parties and witnesses from any part of the State, and compel the production of books, papers, documents or tangible things;
- (4) To admit to bail persons rightfully confined in all bailable cases, or to dispense with bail as provided by the state constitution;
- (5) To issue warrants for the apprehension, in any part of the State, of any person accused under oath of a crime or misdemeanor committed in any part of the State and to examine and commit the person to prison according to law, for trial before the circuit court of the circuit in which the offense was committed, to fix bail and generally to perform the duties of a committing magistrate;
- (6) To make and award such judgments, decrees, orders, and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to them by law or for the

promotion of justice in matters pending before them.
[L 1972, c 88, §3(m)]

Rules of Court

Writ of mandamus abolished, exceptions, relief how obtained,
see HRCF rule 81.1.

Law Journals and Reviews

Contemporary Contempt: The State of the Law in Hawaii. I
HBJ, no. 13, at 59 (1997).

The Inherent Power of the Hawaii Judiciary to Sanction
Litigants and Their Lawyers. V HBJ 45 (2001).

Case Notes

Court, under power as supervisor over grand jury proceedings,
issued an overbroad order when it disqualified all assistant
prosecutors because prosecuting attorney was disqualified. 57
H. 289, 554 P.2d 1131 (1976).

Court had authority to enter judgment against defendant for
violating court order. 68 H. 608, 726 P.2d 254 (1986).

Though court has inherent power to issue sanctions under this
section, court abused discretion in sanctioning attorney absent
evidence of bad faith conduct. 79 H. 452, 903 P.2d 1273 (1995).

Trial court's order that attorneys disgorge proceeds of sale
of stock received from defendant as payment of attorneys' fees
promoted justice in matter pending by preserving trial court's
authority and ability to grant plaintiff effective relief by
maintaining the relative status quo regarding defendant's
alleged assets; hence, no abuse of discretion. 91 H. 372, 984
P.2d 1198 (1999).

Under paragraph (6), an attorney whose pro hac vice status has
been revoked can be compelled to notify Hawaii courts in future
applications of such a revocation. 91 H. 372, 984 P.2d 1198
(1999).

Section restates inherent powers doctrine; finding of bad
faith necessary precedent to sanction of attorney's fees under
court's inherent powers. 6 H. App. 431, 726 P.2d 268 (1986).

Court had authority pursuant to this section to sanction
attorney for failure to keep court apprised of whereabouts as
instructed; appellant must be accorded proper due process rights
under this section. 9 H. App. 249, 833 P.2d 85 (1992).

Trial court erred in suppressing relevant evidence under its
"inherent supervisory powers" under paragraph (6) where
videotaping of drug-dealing defendant on public street was not

unconstitutional nor did it violate any statute or administrative rule. 92 H. 454 (App.), 992 P.2d 723 (1999).

Circuit court was statutorily authorized, in aid of its original jurisdiction over mortgage foreclosure actions, to enter appropriate orders against successful bidder at a judicial foreclosure sale after successful bidder defaulted on agreement to purchase the mortgaged property at the foreclosure sale. 96 H. 348 (App.), 31 P.3d 205 (2001).

A represented party is entitled to at least the same protections as his or her counsel prior to the levy of sanctions directly against the party; a court may not invoke its inherent powers to sanction a represented party without a specific finding of bad faith and the court's order must inform the party of the authority pursuant to which he or she is being sanctioned; where there were no such findings, and based on review of the entire record, plaintiff's conduct in conjunction with the renewed motion for consolidation did not constitute and was not tantamount to bad faith, trial court abused its discretion when it sanctioned plaintiff. 119 H. 324 (App.), 197 P.3d 776 (2008).

Mentioned: 795 F. Supp. 1009 (1990).

" **§603-22 REPEALED.** L 1972, c 88, §3(t).

" **§603-23 Injunction of violation of laws and ordinances.** The circuit courts shall have power to enjoin or prohibit any violation of the laws of the State, or of the ordinances of the various counties, upon application of the attorney general, the director of commerce and consumer affairs, or the various county attorneys, corporation counsels, or prosecuting attorneys, even if a criminal penalty is provided for violation of the laws or ordinances. Nothing herein limits the powers elsewhere conferred on circuit courts. [L 1892, c 57, pt of §37; am L 1903, c 32, pt of §11; am L 1915, c 99, pt of §1; RL 1925, pt of §2248; am L 1929, c 18, pt of §1; RL 1935, pt of §3644; RL 1945, pt of §9648; RL 1955, pt of §215-18; am L 1957, c 287, §1; HRS §603-23; am L 1972, c 88, §3(n); am L 1975, c 134, §1; am L 1996, c 30, §1]

Case Notes

City may bring action for mandatory injunction to remove structure that is a nuisance. 45 H. 232, 364 P.2d 646 (1961).

Continuing operation of a private school without license required by law is per se an irreparable injury to public policy. 65 H. 289, 651 P.2d 473 (1982).

This section is not a jurisdiction-conferring statute, but merely authorizes the circuit courts to afford injunctive relief, provided "there is a jurisdictional basis for equity to act"; therefore, this section did not provide the trial court with subject matter jurisdiction. 106 H. 198, 103 P.3d 358 (2004).

Circuit court had subject matter jurisdiction over the case where county's first amended complaint asserted jurisdiction pursuant to §603-21.5, which provided the independent jurisdictional basis for the action brought pursuant to this section. 115 H. 15, 165 P.3d 916 (2007).

Allows courts to enjoin public nuisance; does not extend equity jurisdiction to enforcement of criminal laws. 5 H. App. 463, 701 P.2d 175 (1985).

Mentioned: 52 H. 427, 478 P.2d 320 (1970).

" **[§603-23.5] Action to enjoin violation of section 708-871; action for damages.** Any person, firm, private corporation, or municipal or other public corporation or trade association or the attorney general or any county attorney, prosecuting attorney, or corporation counsel may maintain an action to enjoin a continuance of any act in violation of section 708-871 and if injured thereby for recovery of damages. If in any such action the court finds that the defendant is violating or has violated section 708-871 it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved.

Any defendant in any action brought under this section may be compelled to testify by deposition, or in person before the court in which the action is brought, and may be examined by the plaintiff as if on cross-examination, and the plaintiff shall not be bound by the defendant's testimony; provided that no information so obtained may be used against the defendant as a basis for a misdemeanor or prosecution under section 708-871. No proceeding shall be instituted for an injunction unless and until the plaintiff has notified the defendant of the plaintiff's intention to file such a proceeding unless the defendant ceases and desists from continuing to act in violation of section 708-871 such notice to be given at least forty-eight hours previous to the filing of any action. No injunction shall issue in the event that defendant has ceased violating section 708-871 upon the receipt of such notice, but the giving of such notice or the bringing of an action under this section shall not

prevent the institution or continuance to completion of a prosecution for misdemeanor under section 708-871. [L 1941, c 220, §2; RL 1945, §11374; RL 1955, §289-15; am L 1963, c 5, §4; HRS §747-17; ren L 1972, c 9, pt of §1 and am L 1972, c 109, §3; gen ch 1985]

Rules of Court

Injunction, see HRCP rule 65.

" **§§603-24 to 603-28 REPEALED.** L 1972, c 88, §3(t).

" **§603-29 Order to show cause.** [*Repeal and reenactment on June 30, 2020. L 2015, c 101, §4.*] Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show the termination of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C-10 commanding the sheriff, deputy sheriff, police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff's agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return

receipt showing delivery within the circuit. [L 1980, c 171, §5; am L 1981, c 176, §5; gen ch 1985; am L 1989, c 211, §10; am L 1990, c 281, §11; am L 2012, c 142, §1; am L 2013, c 116, §§3, 25(2)]

"PART IV. VENUE

§603-36 Actions and proceedings, where to be brought.

Actions and proceedings of a civil nature within the jurisdiction of the circuit courts shall be brought as follows:

- (1) Actions described in section 603-21.5(a)(2) shall be brought in the circuit where it is alleged the penalty or forfeiture was incurred;
- (2) Actions in the nature of ejectment or trespass quare clausum fregit or to quiet title to or partition real property shall be brought in the circuit in which the real property in question is situated; provided that if the real property, partition of which is sought, lies in more than one circuit, the action may be brought in any circuit in which the real property or any part thereof is situated;
- (3) Proceedings concerning trusts and the estates of decedents, missing persons, protected persons, minors, and incapacitated persons shall be brought as prescribed by chapter 560;
- (4) Applications for writs directed to courts of inferior jurisdiction or for writs of quo warranto shall be made in the circuit in which the alleged occasion for relief by any such writ arises; provided that in case any such writ is necessary in the prosecution or furtherance of any action or proceeding already begun or pending before any circuit court, the court before which the action or proceeding has been begun or is pending may issue the writ even though the alleged occasion for relief arose in another circuit; and
- (5) Actions other than those specified in paragraphs (1) to (4) shall be brought in the circuit where the claim for relief arose or where the defendant is domiciled; provided that if there is more than one defendant, then the action shall be brought in the circuit in which the claim for relief arose unless a majority of the defendants are domiciled in another circuit, whereupon the action may be brought in the circuit where the majority of the defendants are domiciled. [L 1892, c 57, §38; am L 1898, c 56, §1; am L 1903, c 32, §12; RL 1925, §2249; RL 1935, §3645; RL 1945, §9651;

am L 1955, c 100, §1; RL 1955, §215-21; am L 1957, c 194, §1; HRS §603-36; am L 1972, c 88, §3(o); am L 1976, c 200, pt of §1; am L 2016, c 55, §19]

Cross References

Venue:

Change of, see §603-37.

Insurance action, see §431:10-241.

Quiet title action, see §669-1.

Rules of Court

Hawaii Rules of Civil Procedure do not extend or limit jurisdiction or venue, see HRCF rule 82.

Case Notes

Mortgage foreclosure. See 13 H. 193 (1900).

Statutory requirements as to residence cannot be waived in divorce even by specific consent of the parties because the government is interested in divorce proceedings. 19 H. 243 (1908). The foregoing case distinguished between the bringing of a divorce case and the trying of such a case and did not involve the power of the court to grant a change of venue. See 19 H. 366, 373 (1909). See also 23 H. 376 (1916), et seq. in the matter of statutory requirements as to time of residence.

Circuit court judges when sitting as commissioners of water rights have jurisdiction only when the land involved is situated within their respective circuits. 32 H. 404, 414 (1932).

Refusal to exercise jurisdiction though not limited by this section. 32 H. 404 (1932).

No power to review rulings of another circuit judge. 33 H. 364 (1935).

Bringing of action in wrong circuit is ground for dismissal but defect can be waived. 47 H. 271, 386 P.2d 880 (1963).

Paragraph (5) pertains to venue, not jurisdiction; venue requirements may be waived. 53 H. 398, 495 P.2d 585 (1972).

Under rules of court and paragraph (5), addition of third party defendants will not disturb venue based on main proceeding. 53 H. 398, 495 P.2d 585 (1972).

Cited: 29 H. 455, 457 (1926); 46 H. 197, 198, 377 P.2d 609 (1962).

" **§603-37 Change of venue.** After the parties shall have had an opportunity to be heard, any circuit court may, upon

satisfactory proof that a fair and impartial trial cannot be had in any civil case pending in the court, or, in its discretion, upon satisfactory proof that it would be more fair and equitable to the parties thereto if any civil case pending in the court were heard in another jurisdiction, change the venue to some other circuit and order the record to be transferred thereto; provided that any circuit court may, in its discretion, upon the consent of all the parties to any civil case pending in the court, change the venue to some other circuit court and order the record to be transferred thereto. [L 1892, c 57, pt of §36; am L 1903, c 32, pt of §10; am L 1921, c 157, pt of §1; RL 1925, pt of §2247; RL 1935, pt of §3643; RL 1945, pt of §9647; RL 1955, pt of §215-17; am L 1957, c 195, §1; HRS §603-37; am L 1972, c 88, §3(p)]

Rules of Court

Hawaii Rules of Civil Procedure do not extend or limit jurisdiction or venue, see HRCP rule 82.

Case Notes

Change of venue and discretion therein. 9 H. 360 (1894); 11 H. 314, 317 (1898); 20 H. 7, 11 (1910); in ejectment, 19 H. 334 (1909); 31 H. 65 (1929).

Where action is brought in wrong circuit, this section cannot be used as a remedy to transfer case to proper circuit. 47 H. 271, 386 P.2d 880 (1963).

" **§603-37.5 Cure or waiver of defects.** (a) The circuit court of a circuit in which is commenced a civil case laying venue in the wrong circuit shall transfer the case, upon or without terms and conditions as the court deems proper, to any circuit in which it could have been brought, or if it is in the interest of justice dismiss the case.

(b) Nothing in sections 603-36 to 603-37.5 shall impair the jurisdiction of a circuit court of any matter involving a party who does not interpose timely and sufficient objection to the venue. [L 1972, c 88, §3(q)]

"PART V. ASSIGNMENT TO ANOTHER CIRCUIT; TEMPORARY ASSIGNMENT OF RETIRED CIRCUIT JUDGES

Note

Part heading amended by L 1972, c 88, pt of §3(r); L 1983, c 244, §2.

§603-41 When judge may be required to preside in another circuit; temporary assignment of retired circuit judges.

Whenever it is advisable, by reason of the disqualification of any circuit judge, or the judge's inability to attend to the judge's duties or there is a vacancy in the office of any circuit judge, or a congestion of work in any circuit court, or for any other reason, the chief justice of the supreme court may assign and require the judge of any other circuit, or any retired circuit judge, from any circuit, to hear and determine any or all matters then or thereafter pending in the circuit to which the judge is assigned for such purpose, and to perform any other duties pertaining to the office of circuit judge of the circuit to which the judge is so assigned, and while so engaged the judge shall have and exercise all the powers vested in a judge of that circuit. A judge serving temporarily shall not be actively engaged in the practice of law. Temporarily assigned retired circuit court judges shall be compensated per diem at a rate of pay equivalent to that of circuit court judges. [L 1892, c 57, §45; am L 1901, c 12, §1; am L 1923, c 164, §1; RL 1945, §9642; am L 1949, c 37, §1; RL 1955, §215-12; HRS §603-41; am L 1972, c 88, §3(s); am L 1983, c 244, §3; gen ch 1993]

Cross References

See Const. art. VI, §6.

Case Notes

Cited: 22 H. 589, 593 (1915); 26 H. 557 (1922).

" **§603-42 REPEALED.** L 1972, c 88, §3(t).

"PART VI. RENT CONTROL APPEALS--REPEALED

§603-46 REPEALED. L 1972, c 88, §3(t).