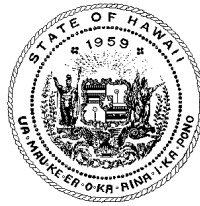


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
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Tommy Johnson
Deputy Director
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Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1036, HOUSE DRAFT 1
RELATING TO PUBLIC SAFETY.

By
Max N. Otani, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator J. Kalani English, Vice Chair

Tuesday, March 16, 2021; 1:00 p.m.
Via Video Conference

Chair Nishihara, Vice Chair English, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 1036, House Draft (HD) 1, which would re-enact Hawaii Revised Statutes (HRS) Section 353C-110, to authorize the Department of Public Safety to maintain a list of independent civil process servers and amend several statutes to allow process servers to serve specific types of legal documents.

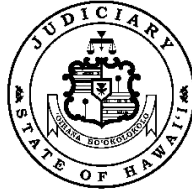
HB 1036, HD 1 proposes amendments to Chapter 353, and HRS sections that will accomplish the following:

(1) Update Sections 353C-10, 501-154, 603-29, 604.62, 607-4, 607-8, 633-8, 634-11, 634-12, 634-22, 634-29, 651-1, 652-1.5, 652-2, 652-2.5, 652-2.6, 654-2, 666-11, and 666-21 HRS, by re-enactment beyond the sunset date of June 30, 2020.

(2) Clarify individuals authorized to serve legal process documents as sheriff, deputy sheriff, police officer and independent civil process servers from the department of public safety's list under Section 353C-10.

This bill is intended to update and re-enact the referenced statutes that were sunsetted on June 30, 2020. The measure will also provide clear guidelines for the limitation of authority, fee schedules and the specific services provided by process servicers who are required to be listed with the Department of Public Safety.

Thank you for the opportunity to provide this testimony.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First Legislature, 2021 Regular Session

Senate Committee on Public Safety, Intergovernmental and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator J. Kalani English Vice Chair

Tuesday, March 16, 2021, 1:00 p.m.
State Capitol, VIA VIDEOCONFERENCE

WRITTEN TESTIMONY ONLY

By:

Rodney A. Maile

Administrative Director of the Courts

Bill No. and Title: House Bill No. 1036, H.D. 1, Relating to Public Safety.

Purpose: Reenacts HRS Section 353C-10 to require the department of public safety to maintain a list of independent civil process servers and amends several statutes to allow process servers to serve specific types of legal documents.

Judiciary's Position:

The Judiciary supports this measure that requires the Department of Public Safety (PSD) to maintain a list of independent civil process servers to process writs and other legal documents; provides criteria for disallowing names on the list; and ensures immunity from liability for PSD, the state and individual employees.

It is important that the requirements of HRS Section 353C-10, repealed as of June 30, 2020, be continued. Without this mandate and the exemption from liability for PSD with regard to maintaining the list of process servers, obtaining process servers to serve process will create needless obstacles for litigants. This may, in turn, hinder the judicial process which, particularly during these challenging times, could be detrimental to the public.

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



TESTIMONY

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing: Tuesday, March 16, 2021 (1:00 p.m.)

TO: The Honorable Clarence K. Nishihara, Chair
The Honorable Kalani English, Vice Chair

FROM: Levi Hookano
HSBA President

RE: House Bill No. 1036, HD1
Relating to the Judiciary

Chair Nishihara, Vice Chair English, and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, thank you for the opportunity to offer testimony on behalf of the Hawaii State Bar Association (HSBA) in **SUPPORT** of House Bill 1036, House Draft 1 that would re-establish provisions authorizing the Director of the Department of Public Safety (DPS) to maintain a list of independent civil process servers to process:

- Orders to show cause
- Garnishment documents
- Writs of replevin and attachment
- Writs of possession
- Orders for examination
- Writs of attachment

This measure will also re-establish criteria to be provided to the DPS Director for approval.

The original law “sunsetting” on June 30, 2020.

The work of independent civil process servers cannot be minimized. Honest and ethical civil process servers who are knowledgeable with service parameters are absolutely necessary to initiate civil cases. Without “perfected” service of process legal proceedings cannot proceed. At any given point in time during the judicial process, a challenge may be raised that “perfected” service had not been accomplished and a delay may cause additional expense to the clients.

This bill is an “access to justice” measure.

Thank you for the opportunity to submit these comments in **SUPPORT** of House Bill 1036, House Draft 1.

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Reply to: **STEVEN GUTTMAN, CHAIR**
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HONOLULU, HAWAII 96813
TELEPHONE: (808) 536-1900
FAX: (808) 529-7177
E-MAIL: sguttman@kdubm.com

March 14, 2021

Re: H.B. 1036, HD1 Relating to Public Safety
Hearing: March 16, 2021 at 1 p.m.
Senate Comm. on Public Safety, Intergovernmental and Military Affairs
Testimony in Support

Dear Chair Nishihara, Vice-Chair English and Committee Members:

This testimony is submitted on behalf of the Collection Law Section (“CLS”) of the Hawaii State Bar Association.¹

The Collection Law Section fully supports passage of this bill. Our members rely on private process servers to serve Writs of Possession, Writs of Replevin, Orders to Show Cause and garnishment orders as a daily part of their legal practice. The sunset provision in Act 101 (2015) that went into effect on June 30, 2020, resulted in a repeal of *inter alia* HRS §353C-10, §501-154, §603-29, §604-6.2, and §607-8, which removed express language that allowed private process servers to serve such writs and orders. Passage of this bill would reinstate that language

Thank you for considering our testimony in strong support of this bill.

/s/ Jane Sugimura
The Collection Law Section

¹ The comments and recommendations submitted reflect the position/viewpoint of the Collection Law Section of the Hawaii State Bar Association only. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors.

HB-1036-HD-1

Submitted on: 3/12/2021 3:49:44 PM

Testimony for PSM on 3/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

You people are very close to starting a war with the Hawaii people. You are standing on very thin Ice.

DAVID W.H. CHEE

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MARCH 16, 2021

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair

Senator J. Kalani English, Vice Chair

Re: HBI036 HD1- RELATING TO PROCESS SERVERS

Dear Senators:

I am an attorney and often need to have court orders served. In the past, I have used process servers from the list of independent process servers to see that the Court's orders are fulfilled.

Since independent process servers are not presently authorized by law to serve court writs, the courts' orders must await the Sheriff Department's assistance. Such assistance is hard to get.

In one instance, I have been attempting to get the Sheriff's assistance to remove a tenant. The Court ordered that this tenant should be removed after determining that he presented immediate health and safety issues for his neighbors, and determined the situation justified the landlord taking possession of the property. In this case, the tenant purposefully damaged the property by leaving his own feces and other human waste on the floor, and then flooding the unit. This has caused water damage to the neighbors below and has also caused untreated sewage to flow into their apartments.

The tenant has refused to vacate and, as a result, cannot be removed without assistance from someone authorized to execute writs. Presently, since only the Sheriff is authorized and the Sheriff has not acted, the problem persists. The delay presents a continued threat to the health of those that live near the unit and risks damage to their property. Without legal authorization for independent process servers to serve writs, this situation – and many similar to it – will continue to fester.

There is a saying in the law that justice delayed is justice denied. In this case, the lack of independent process servers is delaying – and denying – justice to the people of Hawaii. I urge you to vote in favor of this bill.

Please let me know if you have any questions.

Very truly yours,
/s/ David Chee
David W.H. Chee