

## *The Judiciary, State of Hawai‘i*

### **Testimony to the Thirty-First Legislature, 2021 Regular Session**

#### **Senate Committee on Judiciary and Hawaiian Affairs**

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Thursday, April 1, 2021, 9:35 a.m.  
State Capitol, VIA VIDEOCONFERENCE

#### **WRITTEN TESTIMONY ONLY**

By:

Rodney A. Maile

Administrative Director of the Courts

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**Bill No. and Title:** House Bill No. 1036, H.D. 1, S.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.

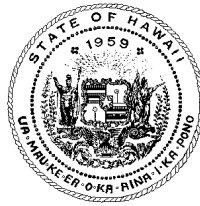
#### **Judiciary's Position:**

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It is important that the requirements of HRS Section 353C-10, repealed as of June 30, 2020, be continued.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.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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

**MAX N. OTANI**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Tommy Johnson**  
Deputy Director  
Corrections

**Jordan Lowe**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

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

By  
Max N. Otani, Director

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

Thursday, April 1, 2021; 9:35 a.m.  
Via Videoconference

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

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

HB 1036, HD1, SD1's proposed amendments to Chapter 353, and related sections will accomplish the following:

(1) Update section 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 repeal 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, with the repeal date of June 30, 2020. The enacted measure will provide clear guidelines for the limitation of authority, fee schedules, and the specific services provided by process servicers who are required to be registered with the Department of Public Safety.

Thank you for the opportunity to provide this testimony.



**TESTIMONY**

Senate Committee on Judiciary  
**Hearing: Thursday, April 1, 2021 (9:35 a.m.)**

**TO:** The Honorable Karl Rhoads, Chair  
The Honorable Jarrett Keohokalole, Vice Chair

**FROM:** Levi Hookano  
HSBA President

**RE:** House Bill No. 1036, HD1, SD1  
Relating to the Judiciary

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary, thank you for the opportunity to offer testimony on behalf of the Hawaii State Bar Association (HSBA) in **SUPPORT** of House Bill 1036, HD1, SD1 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, HD1, SD1.

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**Reply to:** STEVEN GUTTMAN, CHAIR  
220 SOUTH KING STREET SUITE 1900  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 536-1900  
FAX: (808) 529-7177  
E-MAIL: [sguttman@kdubm.com](mailto:sguttman@kdubm.com)

March 26, 2021

Re: H.B. 1036, HD1 SD1 Relating to Public Safety  
Hearing: April 1, 2021 at 9:35 a.m.  
Senate Comm. on Judiciary  
Testimony in Support

Dear Chair Rhoads, Vice-Chair Keohokalole and Committee Members:

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

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

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<sup>1</sup> 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.