

JAN 25 2012

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# A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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

1           SECTION 1. Since becoming the State's only daily newspaper  
2 of general circulation, the Honolulu Star-Advertiser has  
3 increased classified rates for legal notices more than five  
4 hundred per cent. Weekday rates have increased from \$9.75 to  
5 \$65 and Sunday rates have increased from \$11 to \$75.  
6 Additionally, over the past ten years, newspaper circulation  
7 nationwide has decreased, leading to fewer people reading the  
8 classifieds.

9           The legislature finds that the increase in legal classified  
10 rates has placed a burden on impoverished litigants who are  
11 unable to locate the opposing party and must serve notice of a  
12 proceeding by purchasing a legal classified. The dramatic price  
13 increase in the cost to publish legal notices combined with the  
14 decrease in printed newspaper readership has made the practice  
15 of service by publication obsolete for family court cases  
16 involving impoverished litigants.

17           The purpose of this Act is to allow impoverished family  
18 court litigants an alternative to serving notice by publication,



1 by allowing the posting of pleadings at the courthouse. This  
2 Act requires the serving party to conduct a due and diligent  
3 search for the defendant, request permission from the family  
4 court to post the pleadings at the courthouse, and mail the  
5 pleadings to the defendant's closest known relative, if any.

6 SECTION 2. Section 601-13, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§601-13 Publication of notices and process.** (a) All  
9 notices or process required or permitted by law, by the rules of  
10 any court, or by judicial order to be published or advertised in  
11 judicial proceedings in the State shall be published or  
12 advertised in a newspaper or newspapers having a general  
13 circulation within the county in which the judicial proceedings  
14 are commenced or had, except as otherwise provided.

15 (b) When the notices or process are required to be  
16 published or advertised once or more in a given interval for or  
17 in a successive number of [~~such~~] intervals, the use of the  
18 word[~~, "successive,"~~] "successive" shall not be construed to  
19 require publication in more than the stated number of intervals;  
20 for example, a requirement of publication "once a week for (or  
21 in) three successive [~~weeks,"~~] weeks" shall require [~~but~~] only  
22 three publications.



1        (c) Notwithstanding any law to the contrary, in all family  
2 court cases, if the plaintiff or petitioner, as a result of  
3 impoverishment, is unable to publish notice as required by  
4 subsection (a), the plaintiff or petitioner shall file an  
5 affidavit attesting to impoverishment and to the fact that,  
6 after due and diligent search, the whereabouts of the individual  
7 sought to be served are unknown. Upon such filings, the family  
8 court shall order that service be made by forwarding a certified  
9 copy of the pleadings and process to the individual at the last  
10 known address by registered or certified mail, with a return  
11 receipt requested and a directive to deliver to addressee only,  
12 by sending a certified copy of the pleadings and process to the  
13 defendant's or respondent's closest known relative, if any can  
14 be found, and by posting a copy of the pleadings and process at  
15 the courthouse in which the pleadings and process have been  
16 filed. Service shall be completed thirty days after mailing.  
17 The plaintiff or petitioner shall attest to the fact of the  
18 mailing and the date thereof by affidavit, attaching the  
19 sender's receipt for that mail and, if available, the return  
20 receipt and envelope."



# S.B. NO. 3008

1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

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

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INTRODUCED BY: 



# S.B. NO. 3008

**Report Title:**

Family Court; Service; Notice by Publication; Posting;  
Impoverishment

**Description:**

Allows impoverished family court plaintiffs and petitioners to serve notice by posting pleadings at the courthouse in lieu of notice by publication, subject to order of the court, demonstration of a diligent search, and mailing of the pleadings to the defendant's or respondent's closest known relative.

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