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A BILL FOR AN ACT

A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. Chapter 353C, Hawaii Revised Statutes, is  
2 amended by adding a new section to be designated and to read as  
3 follows:

4 "§353C-10 Service of process; list. (a) For service of  
5 process, the director shall maintain a list of independent civil  
6 process servers to process:

7 (1) Orders to show cause pursuant to chapters 603, 604,  
8 and 633;

9 (2) Garnishment pursuant to chapter 652;

10 (3) Writs of replevin and attachment pursuant to chapter  
11 634;

12 (4) Writs of possession pursuant to chapters 501 and 666;

13 (5) Orders for examination pursuant to chapter 636; and

14 (6) Writs of attachment or execution pursuant to chapter  
15 651.

16 (b) Any independent civil process server may submit the  
17 server's name to the director to be placed on the list;

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1 provided that a person shall not be placed on the list if the  
2 person:

3 (1) Is serving a criminal sentence;

4 (2) Has been convicted of a crime within the previous ten  
5 years;

6 (3) Is required to register as a sex offender; or

7 (4) Is subject to any other legal restriction, including a  
8 temporary restraining order, that prevents the person  
9 from serving process; or

10 (5) Cannot provide a copy of a current State of Hawaii  
11 general excise tax license.

12 (c) The department, the State, and the agencies, officers,  
13 and employees of the department or the State shall not be  
14 responsible or liable for the actions of any independent civil  
15 process servers on the list. The maintenance of the list shall  
16 not create a private cause of action against the department, the  
17 State, or the agencies, officers, and employees of the  
18 department or the State.

19 (d) Placement of a person's name on the list shall not  
20 make the person a law enforcement officer, sheriff or deputy  
21 sheriff, or an employee or agent of the State."

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1 SECTION 2. Section 501-154, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§501-154 Writ of possession, service, time limit for  
4 registration. When in any action in the nature of an action of  
5 ejectment an execution or writ of possession has been issued and  
6 served by the [~~officer,~~] sheriff, deputy sheriff, police  
7 officer, or independent civil process server from the department  
8 of public safety's list under section 353C-10, the [~~officer]~~  
9 sheriff, deputy sheriff, police officer, or independent civil  
10 process server shall cause a copy of the writ, with a return of  
11 the [~~officer's]~~ doings of the sheriff, deputy sheriff, police  
12 officer, or independent civil process server thereon, to be  
13 filed and registered within three months after the service and  
14 before the return of the writ into the clerk's office. The  
15 plaintiff, in case the judgment was that the plaintiff was  
16 entitled to an estate in fee simple in the demanded premises, or  
17 in any part thereof, and for which execution or writ of  
18 possession issued, is thereupon entitled to the entry of a new  
19 certificate of title."

20 SECTION 3. Section 603-29, Hawaii Revised Statutes, is  
21 amended to read as follows:

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1           "**§603-29 Order to show cause.** Whenever a complaint has  
2 been filed in circuit court alleging leased or rented personal  
3 property the value of which is \$5,000 or more, has been retained  
4 by the defendant fourteen days after the termination of the  
5 lease or rental contract, either by passage of time or by reason  
6 of any default under the terms and conditions of the lease or  
7 rental contract, the plaintiff may petition the court for an  
8 order to show cause.

9           Upon the filing of the petition with a copy of the lease or  
10 rental contract and an affidavit sworn to by the plaintiff or  
11 some competent affiant setting forth a statement of facts  
12 sufficient to show the termination of the lease or rental  
13 contract, the court may issue an order directing the defendant  
14 to either return the leased or rented personal property to the  
15 plaintiff or to appear and show cause for the possession at such  
16 time as the court shall direct but not later than ten days from  
17 the date of service of the order to show cause. The order to  
18 show cause shall also provide that if the leased or rented  
19 personal property is not returned to the plaintiff prior to the  
20 hearing, the defendant shall, if reasonably feasible, produce  
21 the property at the hearing. If, at the hearing, it is proved  
22 to the satisfaction of the court that the plaintiff is entitled

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1 to possession of the leased or rented personal property, it  
2 shall issue an order directed to the sheriff, deputy sheriff,  
3 ~~[or person authorized by the rules of court,]~~ police officer, or  
4 independent civil process server from the department of public  
5 safety's list under section 353C-10 commanding the sheriff,  
6 deputy sheriff, ~~[or other person authorized by the rules of~~  
7 ~~court]~~ police officer, or independent civil process server to  
8 seize the personal property therein described and to deliver the  
9 same to the plaintiff or the plaintiff's agent. Service of the  
10 order to show cause shall be as provided by law or rule of court  
11 for cases in the circuit courts, or by registered mail or by  
12 certified mail with return receipt showing delivery within the  
13 circuit."

14 SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§604-6.2 Order to show cause.** Upon the filing of a  
17 complaint with a copy of a lease or rental contract and an  
18 affidavit sworn to by the plaintiff or some competent affiant  
19 setting forth a statement of facts sufficient to show that the  
20 leased or rented personal property has been in the defendant's  
21 possession at least fourteen days after the termination of the  
22 lease or rental contract, either by passage of time or by reason

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1 of any default under the terms and conditions of the lease or  
2 rental contract, the court may issue an order directing the  
3 defendant to either return the leased or rented personal  
4 property to the plaintiff or to appear and show cause for the  
5 possession at such time as the court shall direct, but not later  
6 than ten days from the date of service of the order to show  
7 cause. The order to show cause shall also provide that, if the  
8 leased or rented personal property is not returned to the  
9 plaintiff prior to the hearing, the defendant shall, if  
10 reasonably feasible, produce the property at the hearing. If,  
11 at the hearing, it is proved to the satisfaction of the court  
12 that the plaintiff is entitled to possession of the leased or  
13 rented personal property, it shall issue an order directed to  
14 the sheriff, deputy sheriff, [~~or other person authorized by the~~  
15 ~~rules of court~~] police officer, or independent civil process  
16 server from the department of public safety's list under section  
17 353C-10 commanding the sheriff, deputy sheriff, [~~or a person~~  
18 ~~authorized by the rules of court~~] police officer, or independent  
19 civil process server to seize the personal property therein  
20 described and to deliver the same to the plaintiff or the  
21 plaintiff's agent. Service of the order to show cause shall be  
22 as provided by law or rule of court for cases in the district

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1 courts, or by registered mail or by certified mail with return  
2 receipt showing delivery within the State."

3 SECTION 5. Section 607-4, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) Fees of sheriff, deputy sheriff, police officer, or  
6 ~~[other person authorized by the rules of court:]~~ independent  
7 civil process server from the department of public safety's list  
8 under section 353C-10 shall be as provided under section 607-  
9 8(a)."

10 SECTION 6. Section 607-8, Hawaii Revised Statutes, is  
11 amended by amending the title and subsection (a) to read as  
12 follows:

13 "~~§607-8 Fees of sheriff, deputy sheriff, police officer,~~  
14 ~~servicing or levying officer, or [other person authorized by the~~  
15 ~~rules of court in circuit court, intermediate appellate court,~~  
16 ~~or supreme court.]~~ independent civil process server. (a) For  
17 all necessary travel in making the service, per mile for every  
18 mile more than one. . . . . 60 cents provided that:

- 19 (1) No allowance shall be made where the serving  
20 individual uses a conveyance furnished the serving  
21 individual by the State, or any political or municipal  
22 subdivision thereof;

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- 1           (2) Where the serving individual serves more than one  
2           person in the course of one trip, the serving  
3           individual shall not charge, in the aggregate for all  
4           services more than the mileage for the entire trip;  
5           and
- 6           (3) As far as practicable, in order to minimize the  
7           mileage fees for the service, the sheriff or [~~other~~]  
8           chief of police of the serving police officers, or  
9           ~~[other person authorized by the rules of court where~~  
10          ~~service of process is to be made upon an island other~~  
11          ~~than that upon which is situated the court issuing the~~  
12          ~~process,]~~ independent civil process server from the  
13          department of public safety's list under section 353C-  
14          10 shall cause the process to be transmitted to the  
15          sheriff, deputy sheriff, the chief of police, [~~other~~  
16          ~~person authorized by the rules of court, or other~~  
17          ~~serving individual]~~ a police officer, or an  
18          independent civil process server upon the island of  
19          service who shall make the service upon receipt of the  
20          process; and the service shall be valid,  
21          notwithstanding that the process may not be addressed



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1 to the individual actually making the service or to  
2 the individual's superior.

3 For serving criminal summons or any other criminal process  
4 except a subpoena, for each person served therewith . . . . .  
5 . . . . . \$30 effective July 1, 2001. Service  
6 of criminal summons or any other criminal process shall be made  
7 only by persons authorized to serve criminal summons [~~in~~  
8 ~~accordance with rules of court~~].

9 For serving civil summons, subpoena, subpoena duces tecum,  
10 or any other civil process, except [~~a subpoena or~~] a garnishee  
11 summons, for each person served therewith . . . . .  
12 . . . . . \$43 effective July 1, 2015.

13 For serving: garnishee summons, for each person . . . . .  
14 . . . . . \$30 effective July 1,  
15 2015.

16 For returning as unserved after due and diligent search any  
17 process when it has been found that the person to be served has  
18 left the State . . . . . \$10  
19 effective July 1, 2015.

20 For serving any execution or other process for the  
21 collection of money, for every dollar collected up to \$10,000 .  
22 . . . . . 5 cents.

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1 'And for every dollar over \$10,000 . . . . . 2-1/2 cents.

2 All fees paid to any printer for publishing an  
3 advertisement of the sale of any property.

4 For every bill of sale . . . . . \$4.

5 For executing and acknowledging a deed pursuant to a sale  
6 of real estate to be paid by the grantee in the deed . . . . \$10.

7 For drawing any bond required by law . . . . . \$4.

8 For serving writ of possession or restitution, putting any  
9 person entitled into the possession of premises, and removing a  
10 tenant pursuant to order of court . . . . . \$40.

11 Together will all necessary expenses incurred by the  
12 individual serving the writ, incident to the eviction.

13 For selling any property on an order from the court other  
14 than an execution, the same allowance as for service and sales  
15 by execution.

16 The fees for service of executions, attachments, and  
17 collection of judgments, together with all costs incurred after  
18 judgment rendered, not included in the judgment, in all courts  
19 of the State, shall be collected in addition to the sum directed  
20 to be levied and collected in the writ.

21 In lieu of any fee under this subsection, the fee may be an  
22 hourly rate of not less than \$50 per hour agreed upon in advance

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1 between the party requesting the service and the sheriff, deputy  
2 sheriff, police officer, or [~~other person authorized by the~~  
3 ~~rules of court~~] independent civil process server performing the  
4 service."

5 SECTION 7. Section 633-8, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§633-8 Order to show cause.** Upon the filing of a  
8 complaint with a copy of a lease or rental contract and an  
9 affidavit sworn to by the plaintiff or some competent affiant  
10 setting forth a statement of facts sufficient to show that the  
11 leased or rented personal property has been in the defendant's  
12 possession at least fourteen days after the termination of the  
13 lease or rental contract, either by passage of time or by reason  
14 of any default under the terms and conditions of the lease or  
15 rental contract, the court may issue an order directing the  
16 defendant to either return the leased or rented personal  
17 property to the plaintiff or to appear and who cause for the  
18 possession at such time as the court shall direct, but not later  
19 than five days from the date of service of the order to show  
20 cause. The order to show cause shall also provide that, if the  
21 leased or rented personal property is not returned to the  
22 plaintiff prior to the hearing, the defendant shall, if

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1 reasonably feasible, produce the property at the hearing. If,  
2 at the hearing, it is proved to the satisfaction of the court  
3 that the plaintiff is entitled to possession of the leased or  
4 rented personal property, it shall issue an order directed to  
5 the sheriff, deputy sheriff, [~~or other person authorized by the~~  
6 ~~rules of court~~] police officer, or independent civil process  
7 server from the department of public safety's list under section  
8 353C-10 commanding the sheriff, deputy sheriff, [~~or other person~~  
9 ~~authorized by the rules of court~~] police officer, or independent  
10 civil process server to seize the personal property therein  
11 described and to deliver the same to the plaintiff or the  
12 plaintiff's agent. Service of the order to show cause shall be  
13 as provided by law or rule of court for cases in the district  
14 courts, or by registered mail or by certified mail with return  
15 receipt showing delivery within the circuit."

16 SECTION 8. Section 634-11, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§634-11 Interpleader; application for order by sheriff**  
19 [~~or other person authorized by the rules of court.~~], deputy  
20 sheriff, police officer, or independent civil process server.

21 When, in the execution of process against good and chattels  
22 issued by or under the authority of the courts of the State, by

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1 reason of claims made to such goods and chattels by assignees of  
2 bankrupts and other persons not being the parties against whom  
3 such process had issued, whereby the sheriff, deputy sheriffs,  
4 [~~other~~] police officers, or [~~persons authorized by the rules of~~  
5 ~~court~~] independent civil process servers from the department of  
6 public safety's list under section 353C-10 are exposed to the  
7 hazard and expense of actions, any such claim shall be made to  
8 any goods or chattels taken or intended to be taken in execution  
9 under any such process or to the proceeds or value thereof, it  
10 shall be lawful for the court, out of which the execution shall  
11 have issued, or any judge thereof, upon application of the  
12 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~  
13 ~~person authorized by the rules of court,~~] independent civil  
14 process server made before or after the return of such process,  
15 and as well before as after any action brought against the  
16 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~  
17 ~~person authorized by the rules of court,~~] independent civil  
18 process server to call before it or the judge by rule, order, or  
19 summons, as well the party issuing such process as the party  
20 making the claim. Thereupon the court or judge shall, for the  
21 adjustment of the claims and the relief and protection of the  
22 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~

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1 ~~person authorized by the rules of court,~~] independent civil  
2 process server, make such rules, orders, and decisions as shall  
3 appear to be just according to the circumstances of the case.  
4 The costs of all such proceedings shall be in the discretion of  
5 the court or judge."

6 SECTION 9. Section 634-12, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§634-12 Sale of property seized on execution, when.** When  
9 goods or chattels have been seized in execution by the sheriff,  
10 deputy sheriff, ~~[other]~~ a police officer~~[, or other person~~  
11 ~~authorized by the rules of court]~~, or an independent civil  
12 process server from the department of public safety's list under  
13 section 353C-10 under process of any court, and some third  
14 person claims to be entitled under a bill of sale, chattel  
15 mortgage, or otherwise, to the goods and chattels by way of  
16 security for a debt, the court or a judge may order a sale of  
17 the whole or part thereof, upon such terms as to the payment of  
18 the whole or part of the secured debt or otherwise as it or the  
19 judge shall think fit; and may direct the application of the  
20 proceeds of sale in such manner and upon such terms as to the  
21 court or judge may seem just."

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1 SECTION 10. Section 634-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§634-22 Return. In all cases where any process or order  
4 of a court is served by any officer of the court or of the  
5 police force or the sheriff, deputy sheriff, an independent  
6 civil process server from the department of public safety's list  
7 under section 353C-10, or any investigator appointed and  
8 commissioned by the director of commerce and consumer affairs  
9 pursuant to section 26-9(j), a record thereof shall be endorsed  
10 upon the back of the process, complaint, order, or citation.  
11 The record shall state the name of the person served and the  
12 time and place of service and shall be signed by the sheriff,  
13 deputy sheriff, police officer, independent civil process  
14 server, or investigator making the service. If the [~~officer~~]  
15 sheriff, deputy sheriff, police officer, independent civil  
16 service process server, or investigator fails to make service,  
17 the [~~officer,~~] sheriff, deputy sheriff, police officer,  
18 independent civil process server, or investigator in like  
19 manner, shall endorse the reason for the [~~officer's~~] sheriff,  
20 deputy sheriff, police officer, independent civil process  
21 server, or investigator's failure and sign this record. When  
22 service is made by a person specially appointed by the court, or

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1 ~~[a person authorized by the rules of court, the person]~~ an  
2 independent civil process server, that person shall make  
3 declaration or affidavit of that service.

4 The record ~~[or the]~~, declaration, or affidavit shall be  
5 prima facie evidence of all it contains, and no further proof  
6 thereof shall be required unless either party desires to examine  
7 the sheriff, deputy sheriff, police officer ~~[or person]~~,  
8 independent civil process server, or investigator making  
9 service, in which case the sheriff, deputy sheriff, police  
10 officer ~~[or person]~~, independent civil process server, or  
11 investigator shall be notified to appear for examination."

12 SECTION 11. Section 634-29, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~+~~]**\$634-29**[~~+~~] **In case of attachment, etc., of real**  
15 **property.** In all cases of attachment, sequestration, or  
16 injunction of real property, the sheriff, deputy sheriff, police  
17 officer, or independent civil process server from the department  
18 of public safety's list under section 353C-10 serving the writ  
19 shall, in addition to personal delivery of a copy thereof to the  
20 defendant, post upon the premises a copy of the process, and a  
21 notice of the day and hour when attached, sequestered, or  
22 enjoined, and shall also give notice thereof in a newspaper or



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1 newspapers suitable for the advertisement of judicial  
2 proceedings. But in all cases where a writ of attachment is  
3 issued in accordance with chapter 651 relating to attachments,  
4 and the defendant in attachment was never a resident of the  
5 State or has departed from the State or secretes oneself so that  
6 the writ of attachment cannot be personally served upon the  
7 defendant, personal service of the writ upon the defendant may  
8 be dispensed with. All after-leases, mortgages, sales, devises,  
9 assignments, trusts, or other conveyances of the property, until  
10 the dissolution of the process, shall be void in law as against  
11 the plaintiff in such cases."

12 SECTION 12. Section 651-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§651-1 General provisions.** (a) This chapter shall apply  
15 to circuit and district courts. A judge of any court of record  
16 may make any order at chambers which may by the provisions of  
17 this chapter be made by the court in term time. When the  
18 proceedings are before a district judge, the judge shall be  
19 regarded as the clerk of the court for all purposes contemplated  
20 herein. The phrase "police officer", as used in this chapter,  
21 means the director of public safety or the director's duly  
22 authorized representative, any chief of police or subordinate

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1 police officer, or [~~a person authorized by the rules of court.~~]  
2 an independent civil process server on the list maintained by  
3 the department of public safety pursuant to section 353C-10.  
4 Nothing in this chapter shall be construed to permit a district  
5 judge to issue a writ of attachment to be served out of the  
6 circuit in which the judge's court is situated, or to permit an  
7 attachment of real estate, or any interest therein, under a writ  
8 issued by a district court judge.

9 (b) The department of public safety, the State, and the  
10 agencies, officers, and employees of the department of public  
11 safety or the State shall not be responsible or liable for the  
12 actions of any independent civil process servers on the list  
13 maintained by the department of public safety pursuant to  
14 section 353C-10. The maintenance of the list pursuant to  
15 section 353C-10 shall not create a private cause of action  
16 against the department of public safety, the State, or the  
17 agencies, officers, and employees of the department of public  
18 safety or the State.

19 (c) Nothing in this chapter shall be construed to make an  
20 independent civil process server a law enforcement officer,  
21 sheriff, or deputy sheriff, or an employee or agent of the  
22 department of public safety or the State."

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1 SECTION 13. Section 652-1.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in subsection (e), any creditor  
4 desiring to secure a garnishment process before judgment shall  
5 attach the creditor's petition for process, summons, and  
6 direction to the following documents:

7 (1) An application, directed to the court to which such  
8 action is made returnable, for garnishee process to  
9 issue under section 652-1(a);

10 (2) An affidavit sworn to by the creditor or some  
11 competent affiant setting forth a statement of facts  
12 sufficient to show that probable validity exists to  
13 sustain the validity of the creditor's claim;

14 (3) An order that a hearing be held before the court or a  
15 judge thereof to determine whether or not the  
16 garnishee process should be granted and that notice of  
17 such hearing be given to the defendant debtor; and

18 (4) A summons directed to [~~a proper officer~~] the sheriff,  
19 deputy sheriff, a police officer, or an independent  
20 civil process server from the department of public  
21 safety's list under section 353C-10 commanding the  
22 [~~officer~~] sheriff, deputy sheriff, police officer, or

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1           independent civil process server to serve upon the  
2           debtor at least four days prior to the date of the  
3           hearing, pursuant to chapter 634, the application, a  
4           true and attested copy of the petition, summons, and  
5           direction, the affidavit, and the order and notice of  
6           hearing."

7           SECTION 14. Section 652-2, Hawaii Revised Statutes, is  
8           amended to read as follows:

9           "**§652-2 Garnishee, rights, duties; collection by** [~~levying~~  
10 ~~officer.~~] sheriff, deputy sheriff, police officer, or  
11 independent civil process server. The garnishee shall, when  
12 summoned before judgment rendered against [~~his~~] the garnishee's  
13 principal, if [~~he~~] the garnishee desires, be admitted to defend  
14 [~~his~~] the garnishee's principal in the action.

15           If judgment is rendered in favor of the plaintiff, and  
16 likewise in all cases in which the garnishee is summoned after  
17 judgment, the garnishee fund, or such part thereof as may be  
18 sufficient for that purpose, shall be liable to pay the same.  
19 The plaintiff on praying out execution shall be entitled to have  
20 included in the execution an order directing the [~~officer~~]  
21 sheriff, deputy sheriff, police officer, or independent civil  
22 process server from the department of public safety's list under

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1 section 353C-10 serving the same to make demand of the garnishee  
2 for the goods and effects of the defendant secured in [~~his~~] the  
3 garnishee's hands, whose duty it will be to expose the same to  
4 be taken on execution, and also to make demand of the garnishee  
5 for the debt or wages secured in [~~his~~] the garnishee's hands or  
6 the moneys held by [~~him~~] the garnishee for safekeeping, or such  
7 part thereof as may satisfy the judgment. It shall be the duty  
8 of the garnishee to pay the same. If the garnishee has in any  
9 manner disposed of the goods and effects or does not expose and  
10 subject the same to be taken on execution, or if the garnishee  
11 does not pay to the [~~officer,~~] sheriff, deputy sheriff, police  
12 officer, or independent civil process server when demanded, the  
13 debt or wages or moneys held for safekeeping, the garnishee  
14 shall be liable to satisfy the judgment out of [~~his~~] the  
15 garnishee's own estate, as [~~his~~] the garnishee's own proper  
16 debt, if the goods or effects or debt or wages or moneys held  
17 for safekeeping, be of sufficient value or amount and, if not,  
18 then to the value of the same; provided that every garnishee,  
19 whether summoned before or after judgment, shall be allowed to  
20 retain or deduct from the goods, effects, and credits of the  
21 defendant in [~~his~~] the garnishee's hands at the time of service  
22 all demands against the defendant of which [~~he~~] the garnishee

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1 could have availed [~~himself~~] the garnishee's self if [~~he~~] the  
2 garnishee had not been [~~garnisheed,~~] garnished, whether the same  
3 are at the time due or not, and whether by setoff on a trial or  
4 by setoff of judgments or executions between [~~himself~~] the  
5 garnishee and the defendant, and shall be liable only for the  
6 balance after adjustment of all mutual demands between [~~himself~~]  
7 the garnishee and the defendant; provided that in such  
8 adjustment no demands for unliquidated damages for wrongs or  
9 injuries shall be included, and that the judgment shall show the  
10 amount of any setoff.

11 No garnishee shall be liable to anyone for the nonpayment  
12 of any sum or for the nondelivery of any goods or effects when  
13 the garnishee in good faith believes, or has reason to believe,  
14 that garnishment or other process affects the same, though such  
15 be not the case, but this paragraph shall not supersede section  
16 652-9 where the same are applicable."

17 SECTION 15. Section 652-2.5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§652-2.5[+] **Service on garnishee.** Service of the copy  
20 upon the garnishee may be made in any of the manners here  
21 described, namely:

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1 (1) If the garnishee lives or has an office in the  
2 district in which process is issued, by the [~~servicing~~  
3 ~~officer's~~] sheriff, deputy sheriff, police officer, or  
4 independent civil process server from the department  
5 of public safety's list under section 353C-10 handing  
6 a copy to the garnishee in person or leaving it in the  
7 garnishee's office in charge of some deputy or clerk  
8 or other employees or attache of the office; or

9 (2) If the garnishee lives in a district other than that  
10 in which the process was issued, by the [~~servicing~~  
11 ~~officer's~~] sheriff, deputy sheriff, police officer, or  
12 independent civil process server handing a copy to the  
13 garnishee in person, or by mailing it in a sealed  
14 envelope, registered or certified, postage prepaid,  
15 return receipt requested, and addressed to the  
16 garnishee's last known home or business address."

17 SECTION 16. Section 652-2.6, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) In case of service upon the garnishee, the [~~servicing~~  
20 ~~officer's~~] certificate of service or, if by mail, a copy of the  
21 return receipt provided by the sheriff, deputy sheriff, police  
22 officer, or independent civil process server from the department

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1 of public safety's list under section 353C-10 shall be prima  
2 facie proof of the service."

3 SECTION 17. Section 654-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§654-2 Bond.** When the plaintiff desires the immediate  
6 delivery of the property, the plaintiff shall execute a bond to  
7 the defendant in possession of the property, and to all persons  
8 having an interest in the property, of such amount and with such  
9 sureties as are approved by the court, conditioned that the  
10 plaintiff will prosecute the plaintiff's action to judgment  
11 without delay, and deliver the property to the defendant in  
12 possession or any other person, if such delivery is adjudged,  
13 and pay all costs and damages that may be adjudged against the  
14 plaintiff. Upon the filing of the verified complaint or  
15 affidavit with the bond and a motion for immediate consideration  
16 of the matter, the court shall forthwith inquire into the  
17 matter, ex parte or otherwise, as in its discretion it  
18 determines. If thereupon the court finds that a prima facie  
19 claim for relief has been established, it shall issue an order  
20 directed to the sheriff, [~~or the~~] sheriff's deputy, [~~or the~~]  
21 chief of police, [~~or~~] an authorized police officer of any  
22 county[, ~~or a person authorized by the rules of court~~], or an



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1 independent civil process server from the department of public  
2 safety's list under section 353C-10 to take the property therein  
3 described and deliver the same to the plaintiff.

4 Copies of the verified complaint or affidavit, and, if a  
5 bond for immediate seizure has been filed, of the bond, and, if  
6 an order for the taking has been issued on an ex parte hearing,  
7 of the order, shall forthwith be served upon the defendant in  
8 possession and each person having or claiming a possessory  
9 interest in the property, in the same manner as is provided for  
10 service of summons unless the party to be served has appeared in  
11 the action, in which case service may be made in the same manner  
12 as is provided for service of papers other than the summons. In  
13 a proper case, either before or after issuance of an order for  
14 the taking, the required service may be combined with the  
15 publication of the summons, in which event the giving of notice  
16 of the substance of the proceeding shall be sufficient.

17 Upon the application of any party, the proceeding shall be  
18 advanced and assigned for hearing at the earliest possible  
19 date."

20 SECTION 18. Section 666-11, Hawaii Revised Statutes, is  
21 amended to read as follows:

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1           "**§666-11 Judgment; writ of possession.** If it is proved to  
2 the satisfaction of the court that the plaintiff is entitled to  
3 the possession of the premises, the plaintiff shall have  
4 judgment for possession, and for the plaintiff's costs.  
5 Execution shall issue accordingly. The writ of possession shall  
6 issue to the sheriff, deputy sheriff, police officer[~~, or other~~  
7 ~~person authorized by the rules of court of the circuit where the~~  
8 ~~premises are situated~~], or independent civil process server from  
9 the department of public safety's list under section 353C-10,  
10 commanding the sheriff, deputy sheriff, police officer[~~, or~~  
11 ~~other person authorized by the rules of court~~], or independent  
12 civil process server to remove all persons from the premises,  
13 and to put the plaintiff, or the plaintiff's agent, into the  
14 full possession thereof."

15           SECTION 19. Section 666-21, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17           "(b) If the tenant is unable to comply with the court's  
18 order under subsection (a) in paying the required amount of rent  
19 to the court, the landlord shall have judgment for possession  
20 and execution shall issue accordingly. The writ of possession  
21 shall issue to the sheriff, deputy sheriff, police officer[~~, or~~  
22 ~~other person authorized by the rules of court of the circuit~~

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1 ~~where the premises are situated], or independent civil process~~  
2 server from the department of public safety's list under section  
3 353C-10, ordering the sheriff, deputy sheriff, police officer[  
4 ~~or other person authorized by the rules of court], or~~  
5 independent civil process server to remove all persons and  
6 possessions from the premises, and to put the landlord, or the  
7 landlord's agent, into full possession of the premises."

8 SECTION 20. This Act does not affect rights and duties  
9 that matured, penalties that were incurred, and proceedings that  
10 were begun before its effective date.

11 SECTION 21. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 22. This Act shall take effect upon its approval.

14

15

INTRODUCED BY: \_\_\_\_\_



16

BY REQUEST

JAN 25 2021

# H.B. NO. 1036

**Report Title:**

**Department of Public Safety; Independent Civil Process Servers**

**Description:**

Re-enacts section 353C-10, Hawaii Revised Statutes, to authorize 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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Public Safety

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC SAFETY.

PURPOSE: To re-authorize the Department of Public Safety to maintain a list of independent civil process servers and to allow these process servers to serve specific types of legal documents.

MEANS: Re-enact section 353C-10, and amend sections 501-154, 603-29, 604-6.2, 607-4(d), 607-8, 633-8, 634-11, 634-12, 634-22, 634-29, 651-1, 652-1.5(a), 652-2, 652-2.5, 652-2.6(a), 654-2, 666-11, and 666-21, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 116, Session Laws of Hawaii (SLH) (2013), [~~and~~] as amended by Acts 101 and 125, SLH 2015, provided for a list of independent civil process servers maintained by the Department of Public Safety, but Act 116 sunsetted on June 30, 2020. The proposed amendments to chapter 353, HRS, and related sections will accomplish the following:

- (1) Authorize civil process servers to process writs and other court orders.
- (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.

Impact on the public: This bill is intended to update and re-enact the referenced statutes with a repeal date of June 30, 2020. This Act will provide clear guidelines for the limitation of authority, fee schedules, and the specific services provided by process

servers who are required to be registered with the Department of Public Safety.

Impact on the department and other agencies:  
These proposed amendments will clarify rules and procedures for the Department of Public Safety and other law enforcement agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: PSD 503.

OTHER AFFECTED  
AGENCIES: State and County law enforcement.

EFFECTIVE DATE: Upon approval.