

February 18, 2015

To Whom it May Concern:

I respectfully enter my testimony in support of HB 87.

My name is Kelly Tmakiung and I am a business partner with Pyramid Process on Hawaii Island aka the Big Island of Hawaii. I have been in the process service business for 6 years and have been threatened with being arrested for trespassing while attempting to serve legal process on individuals at their private properties a number of times. Just yesterday, while serving a document in South Kona the male individual I was serving threatened to have me arrested for trespassing. I was there for the sole purpose to serve legal process and nothing more. There were no trespassing signs at the front of his property and no gate on the driveway. I proceeded up the driveway to located the 2 defendants I was there to serve.

Our company had another situation where we were engaged by the State of Hawaii Department Health Solids and Hazards Waste branch to serve a party here in Hilo, Hawaii with a sealed envelope. The server drove onto this parties property thru his open gate and served the party personally. The party said that the server was trespassing on his property and said that he was going to call the police. The server left his property. Later that evening we received a phone call from the police department. They traced the license plate on the vehicle to our company. The server had to go into the police department to make a statement and be "processed". We were engaged by the State of Hawaii to serve this legal process upon this individual and did that. The server had to take time to go to the police station to answer questions and be processed. The police department had to take time to question the server. That was a complete waste of everyone's time, energy and resources. The police officer stated to me that they attempted to persuade this individual to just let this go and not make a formal complaint. Thankfully, as of this date no formal charges have been brought by the Prosecuting Attorney's Office.

The United States of America allows for all of it's citizens their Due Process. Process servers are engaged by individuals, State agencies, Collection Agencies, Banks, Credit Unions, etc. to serve legal process aiding parties in their right to this due process. Defendant's should not be able to shelter/hide/evade behind "No Trespassing" signs or gated communities and process servers should not be threatened with arrest. Process Servers should be exempt from being charged with trespassing while in their duties of serving legal process. I respectfully request that this bill be passed. Thank you for the opportunity to testify.

Aloha,

Kelly Tmakiung  
Pahoa, Hawaii

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bob	Individual	Support	No

Comments: This bill is required in order for service of process to be completed. It is necessary for private process servers to gain entrance to properties marked " No Trespassing", for the purpose of service of process. The exemption would only apply, while attempting service of process only.

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
MELISSA TOYOOKA	AAA LEGAL PROCESS INC	Support	No

Comments: Aloha, My name is Melissa Toyooka and I am the owner of AAA Legal Process Inc. I am in support of this bill because process servers are constantly running into this problem of trespassing. Defendants, resident managers and property owners use this as a way to block process servers from entering their property and doing their job. Thank you for your time.

DAVID Y. IGE  
GOVERNOR



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**LATE**

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

TESTIMONY ON HOUSE BILL 87  
RELATING TO PUBLIC SAFETY

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Friday, February 20, 2015, 4:00 PM  
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

Department of Public Safety (PSD) **supports** House Bill 87 which proposes to shield process servers from prosecution under criminal trespass statutes when making a good faith effort to perform their duties. Occasionally, respondents in a property dispute will try to prevent or delay legal service by posting "No Trespassing" signs on property that is the subject of a court-ordered action. In most instances, the property is not bordered by a physical barrier, such as, a fence or a locked gate. The proposed change to the existing trespass statute would protect the civil process server from incurring a criminal charge when attempting to serve the legal judgment.

Thank you for the opportunity to present this testimony.