
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

- 1 SECTION 1. Section 353C-10, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
- 3 "(b) Any independent civil process server may submit the
4 server's name to the director to be placed on the list; provided
5 that a person shall not be placed on the list if the person:
- 6 (1) Is serving a criminal sentence;
 - 7 (2) Has been convicted of a crime within the previous ten
8 years;
 - 9 (3) Is required to register as a sex offender; [~~or~~]
 - 10 (4) Is subject to any other legal restriction, including a
11 temporary restraining order, that prevents the person
12 from serving process [-]; or
 - 13 (5) Cannot provide a copy of a current State of Hawaii
14 general excise tax license."
- 15 SECTION 2. Section 708-813, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "§708-813 Criminal trespass in the first degree. (1) A
2 person commits the offense of criminal trespass in the first
3 degree if:

4 (a) That person knowingly enters or remains unlawfully:

5 (i) In a dwelling; or

6 (ii) In or upon the premises of a hotel or apartment
7 building;

8 (b) That person:

9 (i) Knowingly enters or remains unlawfully in or upon
10 premises that are fenced or enclosed in a manner
11 designed to exclude intruders; and

12 (ii) Is in possession of a firearm, as defined in
13 section 134-1, at the time of the intrusion; or

14 (c) That person enters or remains unlawfully in or upon
15 the premises of any public school as defined in
16 section 302A-101, or any private school, after
17 reasonable warning or request to leave by school
18 authorities or a police officer; provided however,
19 such warning or request to leave shall be unnecessary
20 between 10:00 p.m. and 5:00 a.m.



1 (2) Subsection (1) shall not apply to a process server who
2 enters or remains in or upon the land or premises of another,
3 unless the land or premises are secured with a fence and locked
4 gate, for the purpose of making a good faith attempt to perform
5 their legal duties and to serve process upon any of the
6 following:

- 7 (a) An owner or occupant of the land or premises;
- 8 (b) An agent of the owner or occupant of the land or
9 premises; or
- 10 (c) A lessee of the land or premises.

11 (3) As used in this section, "process server" means any
12 person authorized under the Hawaii rules of civil procedure,
13 district court rules of civil procedure, Hawaii family court
14 rules, or section 353C-10 to serve process.

15 ~~[(2)]~~ (4) Criminal trespass in the first degree is a
16 misdemeanor."

17 SECTION 3. Section 708-814, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§708-814 Criminal trespass in the second degree.** (1) A
20 person commits the offense of criminal trespass in the second
21 degree if:



- 1 (a) The person knowingly enters or remains unlawfully in
2 or upon premises that are enclosed in a manner
3 designed to exclude intruders or are fenced;
- 4 (b) The person enters or remains unlawfully in or upon
5 commercial premises after a reasonable warning or
6 request to leave by the owner or lessee of the
7 commercial premises, the owner's or lessee's
8 authorized agent, or a police officer; provided that
9 this paragraph shall not apply to any conduct or
10 activity subject to regulation by the National Labor
11 Relations Act.

12 For the purposes of this paragraph, "reasonable
13 warning or request" means a warning or request
14 communicated in writing at any time within a one-year
15 period inclusive of the date the incident occurred,
16 which may contain but is not limited to the following
17 information:

- 18 (i) A warning statement advising the person that the
19 person's presence is no longer desired on the
20 property for a period of one year from the date
21 of the notice, that a violation of the warning



1 will subject the person to arrest and prosecution
2 for trespassing pursuant to section
3 708-814(1)(b), and that criminal trespass in the
4 second degree is a petty misdemeanor;

5 (ii) The legal name, any aliases, and a photograph, if
6 practicable, or a physical description, including
7 but not limited to sex, racial extraction, age,
8 height, weight, hair color, eye color, or any
9 other distinguishing characteristics of the
10 person warned;

11 (iii) The name of the person giving the warning along
12 with the date and time the warning was given; and

13 (iv) The signature of the person giving the warning,
14 the signature of a witness or police officer who
15 was present when the warning was given and, if
16 possible, the signature of the violator;

17 (c) The person enters or remains unlawfully on
18 agricultural lands without the permission of the owner
19 of the land, the owner's agent, or the person in
20 lawful possession of the land, and the agricultural
21 lands:



- 1 (i) Are fenced, enclosed, or secured in a manner
- 2 designed to exclude intruders;
- 3 (ii) Have a sign or signs displayed on the unenclosed
- 4 cultivated or uncultivated agricultural land
- 5 sufficient to give notice and reading as follows:
- 6 "Private Property". The sign or signs,
- 7 containing letters not less than two inches in
- 8 height, shall be placed along the boundary line
- 9 of the land and at roads and trails entering the
- 10 land in a manner and position as to be clearly
- 11 noticeable from outside the boundary line; or
- 12 (iii) At the time of entry, are fallow or have a
- 13 visible presence of livestock or a crop:
- 14 (A) Under cultivation;
- 15 (B) In the process of being harvested; or
- 16 (C) That has been harvested;
- 17 (d) The person enters or remains unlawfully on unimproved
- 18 or unused lands without the permission of the owner of
- 19 the land, the owner's agent, or the person in lawful
- 20 possession of the land, and the lands:



- 1 (i) Are fenced, enclosed, or secured in a manner
2 designed to exclude the general public; or
3 (ii) Have a sign or signs displayed on the unenclosed,
4 unimproved, or unused land sufficient to give
5 reasonable notice and reads as follows: "Private
6 Property - No Trespassing", "Government Property
7 - No Trespassing", or a substantially similar
8 message; provided that the sign or signs shall
9 contain letters not less than two inches in
10 height and shall be placed at reasonable
11 intervals along the boundary line of the land and
12 at roads and trails entering the land in a manner
13 and position as to be clearly noticeable from
14 outside the boundary line.

15 For the purposes of this paragraph, "unimproved
16 or unused lands" means any land upon which there is no
17 improvement; construction of any structure, building,
18 or facility; or alteration of the land by grading,
19 dredging, or mining that would cause a permanent
20 change in the land or that would change the basic
21 natural condition of the land. Land remains



1 "unimproved or unused land" under this paragraph
2 notwithstanding minor improvements, including the
3 installation or maintenance of utility poles, signage,
4 and irrigation facilities or systems; minor
5 alterations undertaken for the preservation or prudent
6 management of the unimproved or unused land, including
7 the installation or maintenance of fences, trails, or
8 pathways; maintenance activities, including forest
9 plantings and the removal of weeds, brush, rocks,
10 boulders, or trees; and the removal or securing of
11 rocks or boulders undertaken to reduce risk to
12 downslope properties; or

13 (e) The person enters or remains unlawfully in or upon the
14 premises of any public housing project or state low-
15 income housing project, as defined in section 356D-1,
16 356D-51, or 356D-91, after a reasonable warning or
17 request to leave by housing authorities or a police
18 officer, based upon an alleged violation of law or
19 administrative rule; provided that a warning or
20 request to leave shall not be necessary between 10:00
21 p.m. and 5:00 a.m. at any public housing project or



1 state low-income housing project that is closed to the
2 public during those hours and has signs, containing
3 letters not less than two inches in height, placed
4 along the boundary of the project property, at all
5 entrances to the property, in a manner and position to
6 be clearly noticeable from outside the boundary of the
7 project property and to give sufficient notice that
8 the public housing project or state low-income housing
9 project is closed to the public during those hours.

10 (2) Subsection (1) shall not apply to a process server who
11 enters or remains in or upon the land or premises of another,
12 unless the land or premises are secured with a fence and locked
13 gate, for the purpose of making a good faith attempt to perform
14 their legal duties and to serve process upon any of the
15 following:

16 (a) An owner or occupant of the land or premises;

17 (b) An agent of the owner or occupant of the land or
18 premises; or

19 (c) A lessee of the land or premises.

20 ~~[-(2)-]~~ (3) As used in this section [7, "housing"]:



1 "Housing authorities" means resident managers or managers,
2 tenant monitors, security guards, or others officially
3 designated by the Hawaii public housing authority.

4 "Process server" means any person authorized under the
5 Hawaii rules of civil procedure, district court rules of civil
6 procedure, Hawaii family court rules, or section 353C-10 to
7 serve process.

8 [~~3~~] (4) Criminal trespass in the second degree is a petty
9 misdemeanor."

10 SECTION 4. Act 116, Session Laws of Hawaii 2013, is
11 amended by amending section 25 to read as follows:

12 "SECTION 25. This Act shall take effect upon its approval
13 and shall be repealed on [~~June 30, 2015,~~] June 30, 2020;

14 provided that:

- 15 (1) Section 501-154, Hawaii Revised Statutes, in section 2
- 16 of this Act;
- 17 (2) Section 603-29, Hawaii Revised Statutes, in section 3
- 18 of this Act;
- 19 (3) Section 604-6.2, Hawaii Revised Statutes, in section 4
- 20 of this Act;



- 1 (4) Section 607-4(d), Hawaii Revised Statutes, in section
- 2 5 of this Act;
- 3 (5) The title and subsection (a) of section 607-8, Hawaii
- 4 Revised Statutes, in section 6 of this Act;
- 5 (6) Section 633-8, Hawaii Revised Statutes, in section 7
- 6 of this Act;
- 7 (7) Section 634-11, Hawaii Revised Statutes, in section 8
- 8 of this Act;
- 9 (8) Section 634-12, Hawaii Revised Statutes, in section 9
- 10 of this Act;
- 11 (9) Section 634-22, Hawaii Revised Statutes, in section 10
- 12 of this Act;
- 13 (10) Section 634-29, Hawaii Revised Statutes, in section 11
- 14 of this Act;
- 15 (11) Section 651-1, Hawaii Revised Statutes, in section 12
- 16 of this Act;
- 17 (12) Section 652-1.5(a), Hawaii Revised Statutes, in
- 18 section 13 of this Act;
- 19 (13) Section 652-2, Hawaii Revised Statutes, in section 14
- 20 of this Act;



1 (14) Section 652-2.5, Hawaii Revised Statutes, in section
2 15 of this Act;

3 (15) Section 652-2.6(a), Hawaii Revised Statutes, in
4 section 16 of this Act;

5 (16) Section 654-2, Hawaii Revised Statutes, in section 17
6 of this Act;

7 (17) Section 666-11, Hawaii Revised Statutes, in section 18
8 of this Act; and

9 (18) Section 666-21(b), Hawaii Revised Statutes, in section
10 19 of this Act,

11 shall be reenacted in the form in which they read on the day
12 prior to the effective date of this Act."

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on June 29, 2015.



Report Title:

Process Server; Service of Process; Criminal Trespass

Description:

Shields process servers from prosecution under criminal trespass statutes when performing their duties. Extends for five years Act 116, Session Laws of Hawaii 2013, relating to persons authorized to serve civil legal process. (HB87 CD1)

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

