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# 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[-];

13 (5) Cannot provide documentation verifying that the person  
14 has received the training necessary to ensure  
15 compliance with the applicable laws regarding the  
16 service of process in the State;

17 (6) Cannot provide a copy of a current State of Hawaii  
18 general excise tax license; or



1        (7) Cannot provide evidence verifying that the person is  
 2        bonded or covered under errors and omissions  
 3        insurance."

4        SECTION 2. Section 708-813, Hawaii Revised Statutes, is  
 5        amended to read as follows:

6        **"§708-813 Criminal trespass in the first degree. (1) A**  
 7        person commits the offense of criminal trespass in the first  
 8        degree if:

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

10        (i) In a dwelling; or

11        (ii) In or upon the premises of a hotel or apartment  
 12        building;

13        (b) That person:

14        (i) Knowingly enters or remains unlawfully in or upon  
 15        premises that are fenced or enclosed in a manner  
 16        designed to exclude intruders; and

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

19        (c) That person enters or remains unlawfully in or upon  
 20        the premises of any public school as defined in  
 21        section 302A-101, or any private school, after



1 reasonable warning or request to leave by school  
2 authorities or a police officer; provided however,  
3 such warning or request to leave shall be unnecessary  
4 between 10:00 p.m. and 5:00 a.m.

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

10 (a) An owner or occupant of the premises;

11 (b) An agent of the owner or occupant of the premises; or

12 (c) A lessee of the premises.

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

17 ~~[(2)]~~ (4) Criminal trespass in the first degree is a  
18 misdemeanor."

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



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

4           (a) The person knowingly enters or remains unlawfully in  
5 or upon premises that are enclosed in a manner  
6 designed to exclude intruders or are fenced;

7           (b) The person enters or remains unlawfully in or upon  
8 commercial premises after a reasonable warning or  
9 request to leave by the owner or lessee of the  
10 commercial premises, the owner's or lessee's  
11 authorized agent, or a police officer; provided that  
12 this paragraph shall not apply to any conduct or  
13 activity subject to regulation by the National Labor  
14 Relations Act.

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



- 1           (i) A warning statement advising the person that the  
2           person's presence is no longer desired on the  
3           property for a period of one year from the date  
4           of the notice, that a violation of the warning  
5           will subject the person to arrest and prosecution  
6           for trespassing pursuant to section  
7           708-814(1)(b), and that criminal trespass in the  
8           second degree is a petty misdemeanor;
- 9           (ii) The legal name, any aliases, and a photograph, if  
10           practicable, or a physical description, including  
11           but not limited to sex, racial extraction, age,  
12           height, weight, hair color, eye color, or any  
13           other distinguishing characteristics of the  
14           person warned;
- 15           (iii) The name of the person giving the warning along  
16           with the date and time the warning was given; and
- 17           (iv) The signature of the person giving the warning,  
18           the signature of a witness or police officer who  
19           was present when the warning was given and, if  
20           possible, the signature of the violator;



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



1 (d) The person enters or remains unlawfully on unimproved  
2 or unused lands without the permission of the owner of  
3 the land, the owner's agent, or the person in lawful  
4 possession of the land, and the lands:

5 (i) Are fenced, enclosed, or secured in a manner  
6 designed to exclude the general public; or

7 (ii) Have a sign or signs displayed on the unenclosed,  
8 unimproved, or unused land sufficient to give  
9 reasonable notice and reads as follows: "Private  
10 Property - No Trespassing", "Government Property  
11 - No Trespassing", or a substantially similar  
12 message; provided that the sign or signs shall  
13 contain letters not less than two inches in  
14 height and shall be placed at reasonable  
15 intervals along the boundary line of the land and  
16 at roads and trails entering the land in a manner  
17 and position as to be clearly noticeable from  
18 outside the boundary line.

19 For the purposes of this paragraph, "unimproved  
20 or unused lands" means any land upon which there is no  
21 improvement; construction of any structure, building,



1 or facility; or alteration of the land by grading,  
2 dredging, or mining that would cause a permanent  
3 change in the land or that would change the basic  
4 natural condition of the land. Land remains  
5 "unimproved or unused land" under this paragraph  
6 notwithstanding minor improvements, including the  
7 installation or maintenance of utility poles, signage,  
8 and irrigation facilities or systems; minor  
9 alterations undertaken for the preservation or prudent  
10 management of the unimproved or unused land, including  
11 the installation or maintenance of fences, trails, or  
12 pathways; maintenance activities, including forest  
13 plantings and the removal of weeds, brush, rocks,  
14 boulders, or trees; and the removal or securing of  
15 rocks or boulders undertaken to reduce risk to  
16 downslope properties; or

17 (e) The person enters or remains unlawfully in or upon the  
18 premises of any public housing project or state low-  
19 income housing project, as defined in section 356D-1,  
20 356D-51, or 356D-91, after a reasonable warning or  
21 request to leave by housing authorities or a police





1 officer, based upon an alleged violation of law or  
2 administrative rule; provided that a warning or  
3 request to leave shall not be necessary between 10:00  
4 p.m. and 5:00 a.m. at any public housing project or  
5 state low-income housing project that is closed to the  
6 public during those hours and has signs, containing  
7 letters not less than two inches in height, placed  
8 along the boundary of the project property, at all  
9 entrances to the property, in a manner and position to  
10 be clearly noticeable from outside the boundary of the  
11 project property and to give sufficient notice that  
12 the public housing project or state low-income housing  
13 project is closed to the public during those hours.

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

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

20 (b) An agent of the owner or occupant of the land or  
21 premises; or



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

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

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

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

10       [~~(3)~~] (4) Criminal trespass in the second degree is a petty  
11       misdemeanor."

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

14       "SECTION 25. This Act shall take effect upon its approval  
15       [~~and shall be repealed on June 30, 2015; provided that:~~

16       ~~(1) Section 501-154, Hawaii Revised Statutes, in section 2~~  
17       ~~of this Act;~~

18       ~~(2) Section 603-29, Hawaii Revised Statutes, in section 3~~  
19       ~~of this Act;~~

20       ~~(3) Section 604-6.2, Hawaii Revised Statutes, in section 4~~  
21       ~~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:**

Requires independent civil process servers to meet additional requirements in order to be placed on the director's list of qualified civil process servers. Shields process servers from prosecution under criminal trespass statutes when performing their duties. Makes permanent Act 116, Session Laws of Hawaii 2013, relating to persons authorized to serve civil legal process. (SD2)

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

