

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE CRIMINAL PROCEDURE CODE
(2014 REVISION) TO AUTHORIZE PERSONS OTHER THAN THE
POLICE, SUCH AS BAILIFFS AND OTHER DESIGNATED PERSONS,
TO SERVE SUMMONSES; TO PROVIDE FOR SERVICE OF WITNESS
SUMMONSES BY ELECTRONIC MEANS TO DESIGNATED PUBLIC
OFFICERS; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to authorize persons, other than police officers, such as bailiffs and other designated persons, to serve summonses, in an effort to alleviate some of the burden from the police, thereby enabling the police to focus more time and resources on carrying out their primary policing duties.

The Bill also makes provision for witness summonses to be served on designated public officers by electronic means in an effort to increase efficiency of service of witness summonses, thereby making it easier to notify designated public officers of the details pertaining to their required attendance at court as a witness for the Crown.

Clause 1 of the Bill contains the short title of the legislation.

Clause 2 repeals and replaces section 18 of the Criminal Procedure Code (2014 Revision) and makes provision for persons other than police officers, such as bailiffs and other designated persons, to be authorized to serve summonses.

Clause 3 inserts a new section, 18A, dealing with service of witness summonses by electronic means, to facilitate a more efficient system of notifying designated public officers, such as police officers, customs officers and immigration officers, that they are required to attend court as witnesses for the Crown. The clause provides for witness summonses and notification of the summonses to be sent to the electronic mail address to which the designated public officer has been provided access for use in the course of his or her employment.

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Criminal Procedure Code (Amendment) Law, 2016. Short title

2. The Criminal Procedure Code (2014 Revision) is amended by repealing section 18 and substituting the following section - Repeal and substitution
of section 18 of the
Criminal Procedure
Code (2014 Revision) -
service of summons

“Service of
summons

18. (1) Subject to section 19, every summons shall be served upon the person to whom it is directed by any of the following persons -

- (a) a police officer;
- (b) a bailiff; or
- (c) any other person designated in writing by the Clerk of the Courts for the purpose of assisting the police with the service of summonses under this Law.

(2) A bailiff and a designated person referred to in subsection (1)(b) and (c) shall have the authority and power

to carry out such instructions as may be given by the Clerk of the Courts in accordance with this Law and may exercise on behalf of the Royal Cayman Islands Police Service, any powers granted to the police by this Law to issue summonses.

(3) Each bailiff and designated person assigned under this section shall be provided with an identification card and the identification card shall -

- (a) be prepared and signed by the Clerk of the Courts or the Clerk of the Court's designate;
- (b) contain the name and photograph of the bailiff or the designated person, as the case may be;
- (c) contain written authorization for the bailiff or the designated person to effect service of summonses on behalf of the police;
- (d) be carried by the bailiff or the designated person when serving summonses; and
- (e) be shown to each person on whom a summons is served.”.

(4) Service of a summons by a person specified in subsection (1) shall be effected as follows -

- (a) by personally delivering the summons to the person on whom it is to be served;
- (b) by leaving the summons with an adult at the person's last or most usual place of abode if the person on whom the summons is to be served cannot conveniently be located; or
- (c) by leaving it with the person's employer.

Insertion of section 18A
in the Criminal
Procedure Code (2014
Revision)

3. The Criminal Procedure Code (2014 Revision) is amended by inserting after section 18, the following section -

“ Service of
witness
summonses on
designated public
officers by
electronic means

18A.(1) Notwithstanding service of summonses in accordance with section 18; in any criminal proceedings where a designated public officer is required to attend court as a witness, a witness summons may be served on that public officer by electronic means, by sending the summons to an electronic address to which a document may be

delivered and to which the public officer has been given access for use in the course of the public officer's employment.

(2) For the purposes of subsection (1), a designated public officer includes any of the following -

- (a) a police officer;
- (b) a customs officer;
- (c) an immigration officer; or
- (d) any other public officer designated by the Deputy Governor in writing as a public officer on whom service of a witness summons may be effected by electronic means.

(3) Service of a witness summons by electronic means on a public officer, as provided for in subsection (1), shall be deemed to be effective service, provided that the service of the witness summons is effected in accordance with subsection (4).

(4) Where a witness summons is served on a public officer referred to in subsection (2), by electronic means, as provided for in subsection (1); in order for service of the witness summons to be deemed effective, and the intended public officer to have been duly served with a witness summons as at the date of the sending of such notification, the following shall be done -

- (a) notification of the witness summons shall be sent to the public officer by electronic means, by any of the following persons -
 - (i) the Clerk of the Courts or the Clerk of the Court's Nominee;
 - (ii) the Director of Public Prosecutions or the Director of Public Prosecution's Nominee
- (b) the notification of the witness summons shall contain the following information in respect of the hearing of criminal proceedings -
 - (i) the date;
 - (ii) the time;
 - (iii) the place;

- (iv) the defendant's name; and
- (v) the Criminal case number.
- (c) whenever a person referred to in subsection (4)(a)(i) - (ii) serves a witness summons and notification of the witness summons to a designated public officer referred to in subsection (2), by electronic means, every reasonable effort shall be made to ensure that -
 - (i) the e-mail address used to transmit the witness summons and the notification thereof, to the intended public officer, is the correct e-mail address for that public officer;
 - (ii) the e-mail address of the public officer is an e-mail address provided to the public officer for use in the course of the public officer's employment;
 - (iii) a method of tracking delivery of the summons and notification thereof by electronic means is used, with proof of the electronic tracking system being provided in some tangible form; and
 - (iv) where an electronic tracking method provides proof of successful delivery of the witness summons and notification thereof by electronic means, physical evidence of that proof of successful electronic delivery of the summons, including the date on which service by electronic means was successfully effected, shall be retained and provided to the courts upon request; and
 - (v) where a document is served under Section 18A, the person serving it would not be required to also provide the recipient with a hard copy.”.

Passed by the Legislative Assembly the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.