

STATE OF HAWAI‘I  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on Finance**

March 1, 2023

H.B. No. 586 HD1: RELATING TO JUDICIARY

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Office of the Public Defender supports H.B. No. 586 HD1, which requires the Judiciary to develop, implement, and administer an automated court appearance reminder system that generates text message and electronic mail notifications for upcoming court appearances in certain types of cases.

Currently, the Judiciary maintains an eReminder system that allows members of the public to sign up and subscribe in order to receive text or email messages regarding upcoming events in public trial court cases. Anyone who signs up for this free service will receive reminders via text message or e-mail seven days before, one day before, and at 6:00 a.m. of the day of court.

To opt into the eReminder service, an individual can create an account on the Judiciary website at <https://www.courts.state.hi.us/ereminder>. A person can also sign up for eReminder at any courthouse by filling out an application form. The OPD also has the application form available at our offices. During intake (when prospective clients apply for OPD services and are interviewed) at the Oahu office, our prospective clients are encouraged to sign up for eReminder. The vast majority agree to fill out the form and opt into the system.

We have no doubt that the Judiciary’s eReminder system has reduced the number of missed court dates and in turn has reduced the number of bench warrants. According to a study published in the journal *Science*,<sup>1</sup> many “failures to appear” (“FTA”) in court may not be due to an intentional contempt of court but due to the result of human error. Many behavioral factors could lead people to inadvertently fail to

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<sup>1</sup> Alissa Fishbane, Aurelie Ouss, Anjuj K. Shah, “Behavioral nudges reduce failure to appear for court,” *Science*, first release October 8, 2020.

See [https://www.ideas42.org/wp-content/uploads/2020/10/Behavioral-nudges-reduce-failure-to-appear-for-court\\_Science.full\\_.pdf](https://www.ideas42.org/wp-content/uploads/2020/10/Behavioral-nudges-reduce-failure-to-appear-for-court_Science.full_.pdf).

appear in court, such as not knowing they need to attend court, forgetting their court date, or failing to plan ahead to make it to the court at the prescribed time.

The authors found that *providing text message reminders* and redesigning a criminal summons form to highlight critical information increased the likelihood that defendants would show up to their appointed court date, thus eliminating a substantial percentage of arrest warrants for failing to appear in court. The findings show that *FTAs were reduced by 21% as a result of the text message updates* and 13% due to redesigned summons. The results suggested that people were not intentionally skipping court and “nudges” such as making important information more noticeable were effective.

Although the Judiciary has a current notification system, this system can be improved if offenders are made aware of the system prior to their first court appearance. This bill will require the person making the arrest or issuing the citation (i.e., the police officer) to document the alleged offender’s mobile telephone number and/or electronic mail address.

If the offender is given the option to enroll in the eReminder system during their first encounter with the police, the number of FTAs at the initial court appearance should certainly be reduced.

It should also be noted that another benefit of an automated court appearance reminder system is the ability to notify individuals when a courthouse unexpectedly must shut down and all court hearings are canceled. In the recent past, courthouses have been forced to shut down due to weather-related warnings and power outages. The reminder system can notify individuals not only that their court hearings are canceled or will be canceled but also of their rescheduled court date.

Thank you for the opportunity to testify on this measure.



## *The Judiciary, State of Hawai'i*

**Testimony to the Thirty-Second State Legislature, 2023 Regular Session**

**House Committee on Finance**  
Representative Kyle T. Yamashita, Chair  
Representative Lisa Kitagawa, Vice Chair

February 28, 2023, 11:30 a.m.  
Conference Room 325 & Via Videoconference

By:  
Michelle D. Acosta  
Deputy Chief Court Administrator  
District Court of the First Circuit

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**Bill No. and Title:** House Bill No. 586, H.D. 1, Relating to the Judiciary

**Purpose:** Requires the judiciary to develop, implement, and administer an automated court appearance reminder system that generates text message and electronic mail notifications for upcoming court appearances in certain types of cases. Appropriates funds. Effective 6/30/3000. (HD1)

### **Judiciary's Position:**

As the Legislature is aware, the pandemic caused the courts to shift many of the practices of the courts and to innovate in order to respond to the pandemic. Part of this effort is use of an eReminder system. The eReminder system allows court users to sign up for text and/or email reminders for court cases. The service is free and reminders are sent seven days before, one day before, and at 6:00 a.m. on the court date. Since its launch, there have been more than 24,000 texts and emails sent. This service is available for Circuit Court Criminal, Circuit Court Civil, Family Court divorce, District Court traffic and civil cases, just to name a few, and in the future will be rolled out for additional cases. More information on the system can be found on the Judiciary's web site at <https://www.courts.state.hi.us/ereminder>.

However, making the reminder mandatory for all traffic crimes and criminal cases would require several significant changes. Outside of Judiciary changes, law enforcement would have

to gather this information at the time of arrest and the prosecuting agency would have to enter this data upon electronic filing. While we have existing system fields for this data, these fields are not mandatory and the majority of current cases do not have email or mobile phone numbers for defendants entered. Likewise, non-criminal traffic cases and criminal cases issued by citation often lack a phone number and an address for those who are houseless, much less an email address. Without this key data, the Judiciary will not be able to send a reminder.

A software code change to make phone number and email entries mandatory will require time and resources. However, making these fields mandatory may have the effect of law enforcement or prosecutors entering placeholder data in the common situation where they don't have the information. With the current model of cost per text message, this may result in exponential vendor costs to the Judiciary using invalid numbers and email addresses, without sending a reminder that will result in the desired outcome of defendants appearing in court.

The Judiciary supports the appropriation of funds to address the costs of making system changes and sending more text messages. While the current vendor cost per text is low, based on the 2021 Judiciary statistical supplement, we can expect the new criminal caseload for District, Family, and Circuit Court cases to total approximately 111,000 new cases per year if volumes hold steady. The active criminal caseload is much higher, totaling almost 208,000 in 2021. Another factor to consider is the estimated number of court hearings, not just cases, scheduled annually for these types of cases since a text will be sent for each hearing, and cases tend to have multiple hearings.

Each eReminder text currently includes two text messages given message character limits and we expect this to increase to five texts to include the new verbiage outlined in this bill. And, since the voluntary eReminder feature allows anyone to subscribe to receive text and email reminders, these users include the media, attorneys, and any member of the public interested in the case, such as family members of the defendant. Therefore, we can expect the number of subscribers to be in addition to all of the defendants in traffic and criminal cases if the reminder program becomes mandatory. Based on updated estimates, we project an annual cost of \$70,000 for the text reminders, not including the cost of software code changes.

Therefore, Judiciary respectfully requests that the reminders be voluntary. We also ask for at least 6 months to implement changes with an effective date of January 1, 2024 at the earliest.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE KYLE T. YAMASHITA, CHAIR**  
**HOUSE COMMITTEE ON FINANCE**  
**Thirty-Second State Legislature**  
**Regular Session of 2023**  
**State of Hawai`i**

February 28, 2023

**RE: H.B. 586, H.D. 1; RELATING TO THE JUDICIARY.**

Chair Yamashita, Vice-Chair Kitagawa and members of the House Committee on Finance, the Department of the Prosecuting Attorney, City and County of Honolulu (“Department”), submits the following testimony in **support** of H.B. 586, H.D. 1, **with suggestions**.

The Department appreciates and supports any effort to assist defendants—at all levels of the criminal justice system—in appearing consistently for all of their court hearings. While the Department is not actively involved in the hearing-reminder system currently provided by the courts, it is our understanding that the Judiciary does have an optional reminder system in place. To the extent H.B. 586, H.D. 1, can be used to support or improve upon that system, the Department supports the general concept, and defers to the Legislature and Judiciary on the specific details of the system. It is our hope that a more robust reminder system will help to ensure all or nearly all defendants’ appearance; minimize the need for any bench warrants or penal summons to be issued; and decrease the amount of time and cost involved in handling these cases.

With regards to proposed amendments on **page 6, lines 2-6, and page 6, lines 10-13, we suggest that additional language be added, to account for situations where the arrestee or person cited does not have a mobile telephone number and/or electronic email address, or provides false information**, as those types of situations do occur from time to time. When that occurs, we would not want there to be any inference that the arrest or citation is incomplete without that information. We **suggest adding language such as: “as provided by the arrestee” (or offender) or “to the extent reasonably possible.”** We also suggest amending page 2, lines 9-13, to provide a separate subsection for: “The offender’s current contact information, including the offender’s mailing address, physical address, mobile telephone number, and electronic mail address...”

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** the passage of H.B. 586, H.D. 1, **with suggestions**. Thank you for the opportunity to testify on this matter.

# Opportunity Youth Action Hawai'i

Committee: House Committee on Finance  
Hearing Time: 11:30 a.m., February 28, 2023  
Location: State Capitol  
Re: HB 586 HD1, Relating to the Judiciary

Aloha e Chair Yamashita, Vice Chair Kitagawa, and members of the Committee:

We are writing in **strong support** of HB 586 HD1, Relating to the Judiciary.

This bill requires the Judiciary to develop, implement, and administer an automated court appearance reminder system that generates text message notifications for upcoming court appearances in certain types of cases and it appropriates funds to do so.

Studies cited in this measure, as well as research published in 2020 in *Science*, indicate that providing text message reminders increases the likelihood that defendants show up to their appointed court date, thus eliminating a substantial percentage of arrest warrants for failing to appear in court. We believe that this will be an important step toward reducing the escalation of consequences that can ensue once an individual first encounters the justice system.

Our collective, the Opportunity Youth Action Hawai'i (OYAH), works to support young people under age 25 who are disconnected from school and work, referred to as "opportunity youth." This developmental time period is extremely consequential to the individual growth and overall life chances of our children. **We support this measure.**

The Opportunity Youth Action Hawai'i hui is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

**Please support HB 586, HD1.**

**HB-586-HD-1**

Submitted on: 2/25/2023 5:06:24 PM

Testimony for FIN on 2/28/2023 11:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Courts in Kentucky, Ohio, Nebraska, and Florida have implemented a system of text message reminders to help ensure that people appear in court when directed to do so. Implementing an automated court appearance reminder system will encourage people who have a scheduled court appearance to voluntarily comply, reduce rates of “failure to appear,” and thus help to maximize the efficiency of the judiciary’s operations.

According to a September 2022 report of the National Center for State Courts, cases become backlogged when the parties to a court proceeding fail to appear and cause the proceeding to be delayed. However, if a court issues a text message reminder or other type of reminder regarding the future court appearance, cases are more likely to proceed as scheduled. Please pass HB586 HD1.

**HB-586-HD-1**

Submitted on: 2/27/2023 8:01:30 AM

Testimony for FIN on 2/28/2023 11:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing in SUPPORT of HB586 HD1.

me ke aloha 'āina,  
Nanea Lo, Mō'ili'ili

**HB-586-HD-1**

Submitted on: 2/27/2023 10:21:24 AM

Testimony for FIN on 2/28/2023 11:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

Support

**HB-586-HD-1**

Submitted on: 2/27/2023 5:16:28 PM

Testimony for FIN on 2/28/2023 11:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stanley Roehrig	HCBA	Support	Remotely Via Zoom

Comments: <p>See attachment please</p>