



*The Judiciary, State of Hawai'i*

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

**Committee on Judiciary**  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Tuesday, March 14, 2023, 9:30 a.m.  
Conference Room 016 & Via Videoconference

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

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 586, H.D. 2, 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. (HD2)

**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 courtesy service is free to court users and to the public. The electronic 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 currently available for Circuit Court Criminal, Circuit Court Civil, Family Court, District Court traffic, criminal and civil cases, just to name a few. More information on the system can be found on the Judiciary's website at <https://www.courts.state.hi.us/ereminder>.

However, making the electronic 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 an electronic 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. The Judiciary incurs a cost per text message. Using invalid numbers and email addresses as placeholders will exponentially increase vendor costs to the Judiciary 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 improving the current system and sending more text and email messages. While the current vendor cost per text is low, based on the 2021 Judiciary statistical supplement, we can expect a 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 three 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 these estimates, we project an annual cost of \$84,000 for the text reminders, and an additional \$20,000 for 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.

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

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee on Judiciary**

March 14, 2023

H.B. No. 586 HD2: RELATING TO JUDICIARY

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Office of the Public Defender supports H.B. No. 586 HD2, 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 application forms 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

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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).

human error. Many behavioral factors could lead people to inadvertently fail to 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.

# Opportunity Youth Action Hawai'i

Committee: Senate Committee on Judiciary  
Hearing Time: 9:30 a.m., March 14, 2023  
Location: State Capitol  
Re: HB 586 HD2, Relating to the Judiciary

Aloha e Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

We are writing in **strong support** of HB 586 HD2, Relating to the Judiciary.

This measure 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 bill, 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, 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.**

Opportunity Youth Action Hawai'i 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, HD2.**

**HB-586-HD-2**

Submitted on: 3/11/2023 3:26:15 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support

**HB-586-HD-2**

Submitted on: 3/12/2023 5:15:02 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Mick	Individual	Support	Written Testimony Only

Comments:

*Aloha,*

*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 HD2.*

*Mahalo, Marilyn Mick, Honolulu*

**HB-586-HD-2**

Submitted on: 3/13/2023 9:53:32 AM

Testimony for JDC on 3/14/2023 9:30:00 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 HD2.



**LATE**

**HB-586-HD-2**

Submitted on: 3/14/2023 9:19:00 AM

Testimony for JDC on 3/14/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,  
Cards Pintor

**LATE**

**HB-586-HD-2**

Submitted on: 3/14/2023 4:16:36 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

You will be Harrsing the People!!!!