



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Judiciary

Representative Karl Rhoads, Chair

Representative Sharon E. Har, Vice Chair

Friday, February 7, 2014, 2:00 p.m.

State Capitol, Conference Room 325

By

WRITTEN TESTIMONY ONLY

Calvin Ching

Deputy Chief Court Administrator

First Circuit

Bill No. and Title: House Bill No. 1509, House Draft 1, Relating to Highway Safety.

Purpose: Specifies that operating a motor vehicle in the State while utilizing a mobile device is a traffic infraction. Specifies that the penalty for such an infraction shall be a fine of not less than \$250 and that collected fines shall be deposited in the state highway fund. (HB1509 HD1).

Judiciary's Position:

The Judiciary takes no position on the merits of House Bill No. 1509, House Draft 1, but notes that the conversion of the violation of operating a motor vehicle while using a mobile electronic device to an infraction may provide several benefits for the public and a decrease in court congestion.

Under the current law, which treats operating a motor vehicle while using a mobile electronic device as a violation, the person receiving the citation is required to appear in court, face arraignment, enter a plea of guilty, no contest or not guilty, and, if the person enters a plea of not guilty, return to court for a trial. The trial would be the mechanism by which the defendant can present his or her version of the circumstances giving rise to the citation. If the defendant fails to make any court appearance, a bench warrant could be issued and the defendant could face possible arrest.

If the offense is treated as an infraction without graduated penalties, the process provides the public with alternatives to appearing in court. If the defendant did not contest the citation, that defendant could simply make payment online or mail payment to the court for the fines and fees without a court appearance. If the defendant contested the infraction, the defendant could submit a written statement or request a court hearing. The defendant would be given an opportunity to explain his or her version of the circumstances giving rise to the citation or present mitigating circumstances in the written statement or the initial court hearing. This would minimize court appearances for members of the public and allow them to be heard at the earliest opportunity. If a defendant failed to submit a timely written statement or to appear at a scheduled court hearing, the appropriate fines and fees would be imposed via a default judgment. No bench warrant would be issued.

Currently, the law requires the prosecuting attorney to be present at all proceedings in the case and to abide by all the requirements of a criminal prosecution. If the offense is treated as an infraction, the prosecuting attorney would not be involved in the case unless and until a trial was scheduled. However, it should be noted that the adjudication of infraction cases will place greater demands upon judges (who must review written statements during limited timeframes while “off the bench”) as well as traffic operations bureau staff who prepare judgments, orders and notices of infraction hearings; there would also be associated increases in mailing expenses.

Thank you for the opportunity to testify on House Bill No. 1509, House Draft 1.