

RE: **Proposed Amendment to Rule 3 of the
Hawai'i Rules of Penal Procedure**

PROCEDURES FOR ARREST WARRANT

The Supreme Court of Hawai'i seeks public comment regarding a proposal to amend Rule 3 of the Hawai'i Rules of Penal Procedure. The proposal would change the procedures for securing an arrest warrant. The proposed rule is attached hereto.

Comments about the proposed Rule should be submitted, in writing, **no later than October 10, 2017**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website.

Attachment

PROPOSED AMENDMENTS TO HAWAII RULES OF PENAL PROCEDURE

(New material is underlined)

II. INITIATION OF THE CASE

RULE 3. APPLICATION FOR ARREST WARRANT.

(a) Form. An application for the issuance of a warrant of arrest may be in the form of: (1) declaration(s); (2) affidavit(s); (3) an information supported by declaration(s) or affidavit(s); or (4) a complaint supported by declaration(s) or affidavit(s). The application shall contain a written statement of the essential facts constituting the offense being alleged. No warrant of arrest shall issue unless it appears from the application that there is probable cause to believe that an offense has been committed by the person(s) named therein. More than one warrant may issue on the same application. The issuance and execution of warrants shall be as provided in Rule 9 of these Rules.

(b) To Whom Presented.

(1) An application for the issuance of a warrant of arrest in the form of declaration(s) or affidavit(s), or a complaint supported by declaration(s) or affidavit(s), shall be presented to a district court judge within the circuit in which the offense is alleged to have been committed or who otherwise by law has jurisdiction to issue a warrant of arrest on the application.

(2) An application for the issuance of a warrant of arrest in the form of an information supported by declaration(s) or affidavit(s) shall be presented to a judge within the circuit in which the offense is alleged to have been committed or who otherwise by law has jurisdiction to issue a warrant of arrest on the application.

(c) Warrant issuance on oral statements. In lieu of the written declaration(s) or affidavit(s) required under section (a) of this rule, a sworn oral statement, in person or by telephone, may be received by the judge, which statement shall be recorded and transcribed, and such sworn oral statement shall be deemed to be an affidavit for the purposes of this rule. Alternatively to receipt by the judge of the sworn oral statement, such statement may be recorded by a court reporter who shall transcribe the same and certify the transcription. In either case, the recording and the transcribed statement shall be filed with the clerk.

(d) Duplicate warrants on oral authorization. The judge may orally authorize a police officer to sign the signature of the judge on a duplicate original warrant, which shall be deemed to be a valid arrest warrant for the purposes of this rule. The judge shall enter on the face of the original warrant the exact time of issuance and shall sign and file the original warrant and, upon its return, the duplicate original warrant with the clerk.