

RE: **Proposal to Amend Rule 43 of the Hawai'i Rules of Penal Procedure**

PRESENCE OF THE DEFENDANT BY VIDEO CONFERENCE

The Supreme Court of Hawai'i seeks public comment regarding the proposal to amend Rule 43 of the Hawai'i Rules of Penal Procedure concerning the presence of the defendant by video conference. The proposed rule amendment is attached hereto.

Comments about the proposed rule should be submitted, in writing, **no later than Tuesday, September 8, 2015**, 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 AMENDMENT TO
HAWAI'I RULES OF PENAL PROCEDURE**
(New material is underlined)

Rule 43. PRESENCE OF THE DEFENDANT.

* * *

(c) Presence not required. A defendant need not be present either physically or by video conference if:

- (1) the defendant is a corporation and appears by counsel; or
- (2) the proceeding is a conference or argument upon a question of law; or
- (3) the proceeding is a reduction of sentence under Rule 35 of these Rules.

* * *

(e) Presence may be by video conference.

- (1) The court may conduct by video conference, without the consent of the defendant, an arraignment wherein it accepts a plea of not guilty;
- (2) The court may conduct by video conference, with the oral or written consent of the defendant,
 - (A) an arraignment wherein it accepts, or takes under advisement, a plea of guilty or no contest,
 - (B) a pre-trial evidentiary or non-evidentiary proceeding, or
 - (C) a post-conviction evidentiary or non-evidentiary proceeding, other than a sentencing hearing.
- (3) The court may conduct a sentencing hearing and impose sentence by video conference with the oral or written consent of both the prosecution and the defendant.

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