



GOV. MSG. NO. 1289

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB895 SD1, without my approval and with the statement of objections relating to the measure.

HB895 SD1

RELATING TO CREDIT FOR TIME OF
DETENTION PRIOR TO SENTENCE.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 895

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 895, entitled "A Bill for an Act Relating to Credit for Time of Detention Prior to Sentence."

The purpose of this bill is to amend section 706-671(3), Hawaii Revised Statutes (HRS), to clarify that a defendant who is convicted of a crime committed while serving a term of imprisonment for a separate unrelated crime cannot receive credit for any presentence detention time served for the new offense that overlaps with time being served for the old offense.

This bill is objectionable because the wording in the bill, as it is written, does not overcome the problem identified by the Hawaii Supreme Court in State v. Abihai, 146 Hawai'i 398, 453 P.3d 1055 (2020), and does not achieve what the Legislature intended when it first passed section 706-671(3), HRS, in 2012. The bill will have no effect on the sentence a defendant receives for a crime committed while serving a term of imprisonment for a separate unrelated crime.

For the foregoing reasons, I am returning House Bill No. 895 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 50, Session Laws
2 of Hawaii 2012, enacted subsection (3) of section 706-671,
3 Hawaii Revised Statutes, which prevents a defendant from earning
4 credit for time served for a subsequent crime while the
5 defendant is serving a sentence of imprisonment for a separate,
6 unrelated offense. The intent was to provide for uniform
7 application of section 706-671 and deter imprisoned offenders
8 from incurring new offenses.

9 The legislature further finds that in State v. Abihai, 146
10 Haw. 398, 463 P.3d 1055 (2020), the supreme court of Hawaii held
11 that the plain language of section 706-671(1) required that the
12 defendants the legislature sought to address by enacting section
13 706-671(3) still be given credit for the time spent in custody
14 pending trial. In Abihai, the supreme court found that the
15 plain language of section 706-671(3), which would have denied
16 the defendant's entitlement to presentence credit, does not
17 eliminate the defendant's entitlement to presentence detention



1 credit because the presentence detention credit time the
2 defendant requested was not solely "time being served for the
3 separate unrelated felony conviction", but also time served for
4 the subsequent escape crime. In that case the defendant
5 committed escape in the second degree while serving a term of
6 imprisonment for a prior offense. Once apprehended, the
7 defendant was returned to custody to continue serving his term
8 of imprisonment and bail was set on his escape case. Although
9 the intent behind section 706-671(3) was to deny such defendants
10 credit for the time served for the subsequent offense while
11 defendants are serving a term of imprisonment for the prior
12 offense, the court held that under the plain language of section
13 706-671(3), the defendant was still entitled to credit pursuant
14 to section 706-671(1) because the defendant was not serving time
15 solely for the prior separate unrelated offense but also for the
16 new subsequent escape offense.

17 The purpose of this Act is to clarify that defendants being
18 sentenced for offenses that were committed while serving a
19 sentence of imprisonment on a separate unrelated felony
20 conviction cannot be given credit for any time that was served
21 for the separate unrelated felony conviction, even if the



1 defendant was simultaneously being detained pending trial for
2 the offense committed while serving the sentence of imprisonment
3 for the separate unrelated felony conviction.

4 SECTION 2. Section 706-671, Hawaii Revised Statutes, is
5 amended by amending subsection (3) to read as follows:

6 "(3) Notwithstanding subsection (1) and any other law to
7 the contrary, when a defendant is convicted for a crime
8 committed while serving a sentence of imprisonment on a separate
9 unrelated felony conviction[, ~~credit for time being served for~~
10 ~~the term of imprisonment imposed on the defendant for the~~
11 ~~separate unrelated felony conviction shall not be deducted from~~
12 ~~the term of imprisonment imposed on the defendant for the~~
13 ~~subsequent conviction.~~] and the defendant was detained prior to
14 conviction for the subsequent offense while serving the term of
15 imprisonment for the separate unrelated felony conviction, the
16 period of detention served for the subsequent offense shall not
17 be deducted from the term of imprisonment imposed on the
18 defendant for the prior conviction."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



HB No. 895, SD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 22, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives

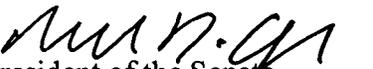


Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: March 29, 2021
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate