

ACT 171

H.B. NO. 771

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the public trust in elected officials has been shaken by recent criminal convictions of public officers. In particular, elected officials have been allowed to continue to hold public office, attend official meetings, and even vote at these meetings after being convicted of crimes that disqualify them from office. The laws have been interpreted to apply removal of convicted officials only after the imposition of sentence for the conviction and not upon conviction itself.

The purpose of this Act is to make it clear and unequivocal that upon the date of conviction by the trier of fact or a guilty determination by the court, the elected official shall be removed from office and not allowed to act in any official capacity.

SECTION 2. Section 831-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A public office held at the time of [sentence] conviction is forfeited as of the date of the [sentence] conviction, if the [sentence] conviction is in this State, or, if the [sentence] conviction is in another state or in a federal court, as of the date a certification of the [sentence] conviction from the [sentencing] trial court is filed in the office of the lieutenant governor who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the

conviction or sentence does not affect the application of this section, but if the conviction is reversed the defendant shall be restored to any public office forfeited under this chapter from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.

For purposes of this section, "time of conviction" means the day upon which the person was found guilty of the charges by the trier of fact or determined to be guilty by the court.'

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 2002.)