

NEIL ABERCROMBIE
GOVERNOR



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No. _____

TESTIMONY ON HOUSE BILL 2602, HD 1
RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE

by

Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Thursday, February 23, 2012, 6:00 PM
State Capitol, Room 308

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 2602, HD 1 that amends Section 706-671, Hawaii Revised Statutes, by adding a new subsection. The department believes that as amended, the language may create a misinterpretation as to the application being limited to credit for time of detention or more commonly referred to as "pre-sentence credits." The language in HB 2602, HD 1 deleted the reference to "no credit for time served" and added "the time being served for the term of imprisonment imposed on the defendant." We request that a specific reference to credit for time served is necessary to ensure purpose of the language.

The intent is to clarify when a defendant, who is convicted for a crime committed while already serving a sentence of imprisonment on a separate unrelated felony offense will earn credit for time of detention or "pre-sentence credits." The intent of the

measure is to specify when a defendant shall not receive credit for time served involving a subsequent crime for any period being served on the original felony term of imprisonment. This measure is intended to assist PSD, the Judiciary, the Office of the Public Defender, County Department of the Prosecuting Attorney, and Defense Counsel by clearly identifying a situation whereby a defendant will not earn pre-sentence credits, while already serving a felony term of imprisonment. The current language and case law related to Section 706-671 has led to ambiguities and inconsistencies by the parties involved in a criminal case.

The language in HB2602, HD1, "(3) Notwithstanding any other law to the contrary, when a defendant is convicted for a crime committed while serving a sentence of imprisonment on a separate unrelated felony conviction, the time being served for the term of imprisonment imposed on the defendant for the separate unrelated felony conviction shall not be deducted from the term of imprisonment imposed on the defendant for the subsequent conviction." The goal is to create uniformity in application, to deter imprisoned offenders from incurring new offenses, and to ensure that a defendant completes his sentence on an initial felony conviction without the benefit of a "double credit" when calculating pre-sentence credits for a subsequent crime.

PSD supports HB 2602, HD 1. If passed it will have a deterrent effect because it guarantees that a defendant will not receive pre-sentence credits for new crimes committed while being incarcerated.

Thank you for the opportunity to testify.