

HB2602,HD2

**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on Judiciary and Labor**

April 2, 2012

**H.B. No. 2602 HD2: RELATING TO CREDIT FOR TIME OF DETENTION
PRIOR TO SENTENCE**

Chair Hee and Members of the Committee:

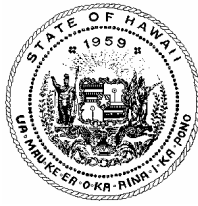
We oppose H.B. No. 2602 HD2 because we think it will confuse the rule on pre-sentence detention credit which is already set forth in H.R.S. § 706-671. § 706-671(1) already provides as follows:

When a defendant who is sentenced to imprisonment has previously been detained in any State or local correctional or other institution following the defendant's arrest for the crime for which sentence is imposed, such period of detention following the defendant's arrest shall be deducted from the minimum and maximum terms of such sentence.

It is clear from this provision that a person who is sentenced to incarceration would get credit for any detention which is served prior to the sentencing for the crime for which the sentenced is imposed. This provision does not authorize credit for detention for any other crimes for which the defendant is imprisoned. Therefore, the proposed amendment to § 706-671 on page 2 of the bill is not necessary and could have the effect of confusing the issue of credit for time served when a defendant is serving multiple separate sentences.

Thank you for the opportunity to comment on this bill.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

JODIE F. MAESAKA-HIRATA
DIRECTOR

MARTHA TORNEY
Deputy Director
Administration

JOE W. BOOKER, JR.
Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2602, HD2
RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE

by

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

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Monday, April 2, 2012, 10:00 AM
State Capitol, Room 016

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) strongly supports House Bill (HB) 2602, HD 2 that amends Section 706-671, Hawaii Revised Statutes, by adding a new subsection. The recommended language clarifies 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, commonly referred to as "pre-sentence credits." This measure specifies that a defendant shall not receive credit for time served on 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. This measure will create uniformity in application and will deter imprisoned offenders from incurring new offenses. The recommended changes will assist with ensuring 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 strongly supports HB 2602, HD 2, because this measure provides a clear and uniform understanding for the calculation of pre-sentence credits. Further, criminal prosecution for crimes committed while in prison is not a deterrent, if pre-sentence credits for those crimes are earned from sentences already being served. This measure, if passed, will have a deterrent effect, because it guarantees that a defendant will serve additional time for further crimes.

Thank you for the opportunity to testify.