
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, by Act 50, Session Laws of
2 Hawaii 2012, enacted subsection (3) of section 706-671, Hawaii
3 Revised Statutes, to prevent a defendant from earning credit for
4 time served for a subsequent crime while the defendant is
5 serving a sentence of imprisonment for a separate, unrelated
6 offense.

7 In *State v. Abihai*, 146 Hawaii 398, 463 P.3d 1055 (2020),
8 however, the Hawaii supreme court held that section 706-671(3)
9 did not prevent the defendant from receiving that credit for
10 time served. In that case the defendant committed escape in the
11 second degree while serving a term of imprisonment for a prior
12 offense. Once apprehended, the defendant was returned to
13 custody to continue serving his term of imprisonment and bail
14 was set on his escape case. Although the intent behind section
15 706-671(3), Hawaii Revised Statutes, is to deny such a defendant
16 credit for the time served for a subsequent offense while
17 serving a term of imprisonment for a prior offense, the court



1 held that under the plain language of section 706-671(3), Hawaii
2 Revised Statutes, the defendant was still entitled to credit
3 pursuant to section 706-671(1), Hawaii Revised Statutes.

4 The purpose of this Act is to clarify that a defendant,
5 being sentenced for an offense that was committed while serving
6 a sentence of imprisonment on a separate unrelated felony
7 conviction, cannot be given credit for a period of presentence
8 detention that took place while the defendant was also serving
9 the sentence of imprisonment for the separate unrelated felony
10 conviction.

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

13 "(3) Notwithstanding subsection (1) and any other law to
14 the contrary, when a defendant is [~~convicted~~] sentenced for a
15 crime committed while serving a sentence of imprisonment on a
16 separate unrelated felony conviction, [~~credit for time being~~
17 ~~served for the term of imprisonment imposed on the defendant for~~
18 ~~the separate unrelated felony conviction shall not be deducted~~
19 ~~from the term of imprisonment imposed on the defendant for the~~
20 ~~subsequent conviction.~~] and the defendant was detained in any
21 state or local correctional or other institution following the



1 defendant's arrest for the crime for which a sentence is
2 imposed, any periods of detention following the defendant's
3 arrest that took place while the defendant was also serving a
4 sentence of imprisonment for the separate unrelated felony
5 conviction shall not be deducted from the minimum and maximum
6 terms of the sentence imposed on the later crime."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Penal Code; Sentencing; Credit for Time of Detention Prior to Sentence

Description:

Clarifies that defendants shall not earn credit on a sentence imposed for a subsequent conviction for time being served on a previous felony conviction. (SD1)

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