

STAND. COM. REP. NO. 3687

Honolulu, Hawaii

APR 04 2022

RE: H.B. No. 2074  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2074, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CREDIT FOR TIME OF DETENTION PRIOR TO SENTENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that a defendant, being sentenced for an offense that was committed while serving a sentence of imprisonment on a separate unrelated felony conviction, cannot be given credit for a period of presentence detention that took place while the defendant was also serving the sentence of imprisonment for the separate unrelated felony conviction.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, and Department of Public Safety. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that the Hawaii Supreme Court's holding in *State v. Abihai* disregards the intent of the Legislature when it enacted section 706-671(3), Hawaii Revised Statutes, in 2012. In *State v. Abihai*, the Hawaii Supreme Court held that the plain language in section 706-671(3), Hawaii Revised Statutes, did not



eliminate the defendant's entitlement to pre-sentence detention credit pursuant to the language outlined in section 706-671(1), Hawaii Revised Statutes. However, when the Legislature codified section 706-671(3), Hawaii Revised Statutes, during the 2012 Legislative Session, it indicated its intent in the Senate Committee on Judiciary and Labor's committee report, stating that the purpose and intent of the measure was to clarify that a defendant will not earn credit for time served for a subsequent crime while the defendant is serving an imprisonment sentence for a separate, unrelated offense. This measure will clarify and solidify the legislative intent of section 706-671(3), Hawaii Revised Statutes, and ensure that convicted offenders do not benefit from effectively shortened sentences if they commit new crimes while incarcerated.

Your Committee has amended this measure by:

- (1) Making it effective upon its approval; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2074, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2074, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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KARL RHOADS, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:*	Committee Referral:	Date:
<b>HB 2074, HD1</b>	<b>JDC</b>	<b>03-18-22</b>

The Committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
 Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	/			
KEOHOKALOLE, Jarrett (VC)	/			
ACASIO, Laura			X	
GABBARD, Mike	/			
KIM, Donna Mercado	/			
LEE, Chris	/			
FEVELLA, Kurt		X		

<b>TOTAL</b>	5	1	1	
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Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature: *Karl Rhoads*

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\*Only one measure per Record of Votes