

## ACT 110

H.B. NO. 2074

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:*

SECTION 1. The legislature, by Act 50, Session Laws of Hawaii 2012, enacted subsection (3) of section 706-671, Hawaii Revised Statutes, to prevent a defendant from earning credit for time served for a subsequent crime while the defendant is serving a sentence of imprisonment for a separate, unrelated offense.

In *State v. Abihai*, 146 Hawaii 398, 463 P.3d 1055 (2020), however, the Hawaii supreme court held that section 706-671(3) did not prevent the defendant from receiving that credit for time served. In that case the defendant committed escape in the second degree while serving a term of imprisonment for a prior offense. Once apprehended, the defendant was returned to custody to continue serving his term of imprisonment and bail was set on his escape case. Although the intent behind section 706-671(3), Hawaii Revised Statutes, is to deny such a defendant credit for the time served for a subsequent offense while serving a term of imprisonment for a prior offense, the court held that under the plain language of section 706-671(3), Hawaii Revised Statutes, the defendant was still entitled to credit pursuant to section 706-671(1), Hawaii Revised Statutes.

The purpose of this Act is to clarify that a defendant, being sentenced for an offense that was committed while serving a sentence of imprisonment on

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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.

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

“(3) Notwithstanding subsection (1) and any other law to the contrary, when a defendant is ~~[convicted]~~ sentenced for a crime committed while serving a sentence of imprisonment on a separate unrelated felony conviction, ~~[credit for 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.]~~ and the defendant was detained in any state or local correctional or other institution following the defendant’s arrest for the crime for which a sentence is imposed, any periods of detention following the defendant’s arrest that took place while the defendant was also serving a sentence of imprisonment for the separate unrelated felony conviction shall not be deducted from the minimum and maximum terms of the sentence imposed on the later crime.”

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

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

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

(Approved June 17, 2022.)