

STAND. COM. REP. NO.

TTZ

Honolulu, Hawaii

MAR 04 , 2021

RE: H.B. No. 895

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 895 entitled:

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

begs leave to report as follows:

The purpose of this measure is to clarify that defendants being sentenced for offenses that were committed while serving a sentence of imprisonment on a separate unrelated felony conviction cannot be given credit for any time that was served for the separate unrelated felony conviction, even if the defendant was simultaneously being detained pending trial for the offense committed while 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 and Department of Public Safety.

Your Committee finds that Act 50, Session Laws of Hawaii 2012 (Act 50), was enacted 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. However, the Hawaii Supreme Court held in *State v. Abihai*, 146 Haw. 398, 463 P.3d 1055 (2020), that a defendant was still entitled to presentence detention credit under

2021-1913 HB895 HSCR HMSO



Hawaii law for the period of time the defendant was simultaneously being detained for a separate unrelated felony conviction and a subsequent offense. This measure will clarify the intent of Act 50 by specifying that certain defendants may not earn credit for a sentence imposed for a subsequent conviction if the defendant was simultaneously serving the sentence of imprisonment for a separate unrelated felony conviction.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 895 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



HSCA 772

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: <i>HB 895</i>	Committee Referral: <i>JHA</i>	Date: <i>2-17-21</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.	✓			
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.				✓
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.				✓
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	<i>10</i>	<i>0</i>	<i>0</i>	<i>2</i>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				