

STAND. COM. REP. NO.

1207

Honolulu, Hawaii

MAR 25 2021

RE: H.B. No. 895
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, 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 and intent of this measure is to clarify that defendants may not earn credit on a sentence imposed for a subsequent conviction for time being served on a previous 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 received testimony in opposition to this measure from the Office of the Public Defender and one individual. Your Committee received comments on this measure from the Office of Hawaiian Affairs.

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 Hawaii law for the period of time the defendant was simultaneously being



detained for a separate unrelated felony conviction and a subsequent offense. Your Committee further finds that when Act 50 was being considered by the Legislature, your Committee on Judiciary and Labor noted in Senate Standing Committee Report No. 3188 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". Accordingly, 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.

Your Committee has amended this measure by 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. 895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 895, S.D. 1, and be placed on the calendar for Third Reading.

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



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:		
HB 895	JDC	3/19/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)				✓
ACASIO, Laura			✓	
GABBARD, Mike				✓
KIM, Donna Mercado	✓			
LEE, Chris	✓			
FEVELLA, Kurt			✓	
TOTAL	3	0	2	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes