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# A BILL FOR AN ACT

RELATING TO THE OFFENSE OF ABUSE OF FAMILY OR HOUSEHOLD MEMBERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that defendants charged  
2 with the offense of abuse of a family or household member are  
3 not eligible for a deferred acceptance of guilty plea or nolo  
4 contendere plea. However, defendants originally charged with  
5 this offense have the option of pleading to a lesser included  
6 offense, such as assault or harassment that does not involve a  
7 family or household member. As a result, defendants are  
8 eligible for a deferred acceptance of guilty plea or nolo  
9 contendere plea where the court will discharge the defendant and  
10 dismiss the charge against the defendant after the defendant's  
11 completion of the period designated by the court and in  
12 compliance with any terms and conditions of the plea.  
13 Furthermore, one year after the discharge and dismissal, the  
14 defendant may expunge the charge.

15       Allowing defendants to plead to a lesser included offense  
16 of the offense of abuse of a family or household member is  
17 contrary to the purpose of requiring that defendants charged  
18 with the offense of abuse of a family or household member be



1 ineligible for a deferred acceptance of guilty plea or nolo  
2 contendere plea.

3 The purpose of this Act is to make a person ineligible for  
4 a deferred acceptance of guilty plea or deferred acceptance of  
5 nolo contendere plea in cases where the person was originally  
6 charged with the offense of abuse of a family or household  
7 member and the charge is subsequently reduced to a lesser  
8 included offense.

9 SECTION 2. Section 709-906, Hawaii Revised Statutes, is  
10 amended by amending subsection (5) to read as follows:

11 "(5) Abuse of a family or household member and refusal to  
12 comply with the lawful order of a police officer under  
13 subsection (4) are misdemeanors and the person shall be  
14 sentenced as follows:

15 (a) For the first offense the person shall serve a minimum  
16 jail sentence of forty-eight hours; and

17 (b) For a second offense that occurs within one year of  
18 the first conviction, the person shall be termed a  
19 "repeat offender" and serve a minimum jail sentence of  
20 thirty days.



1 If a person is originally charged with the offense of abuse of a  
2 family or household member and the charge is subsequently  
3 reduced to a lesser included offense, that person shall be  
4 ineligible for a deferred acceptance of guilty plea or nolo  
5 contendere plea under chapter 853. Upon conviction and  
6 sentencing of the defendant, the court shall order that the  
7 defendant immediately be incarcerated to serve the mandatory  
8 minimum sentence imposed; provided that the defendant may be  
9 admitted to bail pending appeal pursuant to chapter 804. The  
10 court may stay the imposition of the sentence if special  
11 circumstances exist."

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

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on January 7, 2059.



**Report Title:**

Abuse Against a Family or Household Member; Deferred Acceptance of Guilty Plea; Nolo Contendere Plea

**Description:**

Makes a person ineligible for a deferred acceptance of guilty plea or deferred acceptance of nolo contendere plea in cases where the person was originally charged with the offense of abuse of a family or household member and the charge is subsequently reduced to a lesser included offense. Effective 1/7/2059. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

