

ACT 292

S. B. NO. 2329-80

A Bill for an Act Relating to Deferred Acceptance of Guilty Plea.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to correct obsolete wording and expand upon the exclusions from deferred acceptance of guilty pleas (DAG), particularly in view of the proliferation of DAG pleas being granted by judges. The use of a firearm, distribution of illicit drugs, and involvement in specific crimes would be excluded from DAGs. Repeat DAG offenders would no longer be able to receive DAGs after having been granted a previous DAG. Certain serious crimes not presently qualifying for exclusion from the granting of DAGs are added to the class A and violent crimes exclusions because of their seriousness and the failure of DAGs for such crimes to serve a valid public purpose.

SECTION 2. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 853-4 Chapter not applicable; when. This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;

- (2) The offense charged involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct which if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct which if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, whether or not the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
 - (A) Escape in the first degree;
 - (B) Escape in the second degree;
 - (C) Promoting prison contraband in the first degree;
 - (D) Promoting prison contraband in the second degree;
 - (E) Bail jumping in the first degree;
 - (F) Bail jumping in the second degree;
 - (G) Bribery;
 - (H) Bribery of a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering.

The court may by rule adopt other criteria in this area.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.