

ACT 290

H.B. NO. 351

A Bill for an Act Relating to Deferred Acceptance of Nolo Contendere Pleas.

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

SECTION 1. Chapter 853, Hawaii Revised Statutes, is amended by amending the title to read:

**“[[CHAPTER 853]]
CRIMINAL PROCEDURE: DEFERRED ACCEPTANCE
OF GUILTY PLEA, NOLO CONTENDERE PLEA”**

SECTION 2. Section 853-1, Hawaii Revised Statutes, is amended:

1. By amending the title to read as follows:

“§853-1 Deferred acceptance of guilty plea[,] or nolo contendere plea; discharge and dismissal, expungement of records.”

2. By amending subsection (a) to read as follows:

“(a) Upon proper motion as provided by this chapter:

(1) When a defendant voluntarily pleads guilty[,] or nolo contendere, prior to commencement of trial, to a felony [or]_ misdemeanor_ or petty misdemeanor;

- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
- (3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, without accepting the plea of nolo contendere or entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further [proceeding] proceedings.”

SECTION 3. Section 853-2, Hawaii Revised Statutes, is amended to read as follows:

“[[§853-2]] Plea of guilty[;] or nolo contendere; procedure. Upon motion made before sentence by the defendant, the prosecutor, or on its own motion, the court will either proceed in accordance with section 853-1, or deny the motion and accept the defendant’s plea of guilty[,] or nolo contendere, or allow the defendant to withdraw his plea of guilty or nolo contendere only for good cause.”

SECTION 4. Section 853-3, Hawaii Revised Statutes, is amended to read as follows:

“[[§853-3]] Violation of terms and conditions during deferment; result. Upon violation of a term or condition set by the court for a deferred acceptance of guilty plea[,] or deferred acceptance of nolo contendere plea, the court may enter an adjudication of guilt and proceed as otherwise provided.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1983.)