

ACT 85

H.B. NO. 2683

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

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

SECTION 1. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

“§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 is [a]:
 - (a) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person[.]; or [is-a]
 - (b) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial 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 that 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 that 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, regardless of whether 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;
 - (M) Promoting prostitution in the first degree;
 - (N) Promoting prostitution in the second degree;
 - (O) Promoting prostitution in the third degree;
 - (P) Abuse of family or household members;
 - (Q) Sexual assault in the second degree;
 - (R) Sexual assault in the third degree;
 - (S) A violation of an order issued pursuant to chapter 586.

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

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 2004.)