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## A BILL FOR AN ACT

RELATING TO CHAPTER 853, HAWAII REVISED STATUTES.

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

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

3           "**§853-4 Chapter not applicable; when.** This chapter shall  
4 not apply when:

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

7           (2) The offense charged is:

8           (A) A felony that involves the intentional, knowing,  
9 or reckless bodily injury, substantial bodily  
10 injury, or serious bodily injury of another  
11 person; or

12           (B) A misdemeanor or petty misdemeanor that carries a  
13 mandatory minimum sentence and that involves the  
14 intentional, knowing, or reckless bodily injury,  
15 substantial bodily injury, or serious bodily  
16 injury of another person;

17           (3) The offense charged involves a conspiracy or  
18 solicitation to intentionally, knowingly, or



- 1           recklessly kill another person or to cause serious  
2           bodily injury to another person;
- 3           (4) The offense charged is a class A felony;
- 4           (5) The offense charged is nonprobationable;
- 5           (6) The defendant has been convicted of any offense  
6           defined as a felony by the Hawaii Penal Code or has  
7           been convicted for any conduct that if perpetrated in  
8           this State would be punishable as a felony;
- 9           (7) The defendant is found to be a law violator or  
10          delinquent child for the commission of any offense  
11          defined as a felony by the Hawaii Penal Code or for  
12          any conduct that if perpetrated in this State would  
13          constitute a felony;
- 14          (8) The defendant has a prior conviction for a felony  
15          committed in any state, federal, or foreign  
16          jurisdiction;
- 17          (9) A firearm was used in the commission of the offense  
18          charged;
- 19          (10) The defendant is charged with the distribution of a  
20          dangerous, harmful, or detrimental drug to a minor;
- 21          (11) The defendant has been charged with a felony offense  
22          and has been previously granted deferred acceptance of



1 guilty plea status for a prior offense, regardless of  
2 whether the period of deferral has already expired;

3 (12) The defendant has been charged with a misdemeanor  
4 offense and has been previously granted deferred  
5 acceptance of guilty plea status for a prior felony,  
6 misdemeanor, or petty misdemeanor for which the period  
7 of deferral has not yet expired;

8 (13) The offense charged is:

9 (A) Escape in the first degree;

10 (B) Escape in the second degree;

11 (C) Promoting prison contraband in the first degree;

12 (D) Promoting prison contraband in the second degree;

13 (E) Bail jumping in the first degree;

14 (F) Bail jumping in the second degree;

15 (G) Bribery;

16 (H) Bribery of a witness;

17 (I) Intimidating a witness;

18 (J) Bribery of or by a juror;

19 (K) Intimidating a juror;

20 (L) Jury tampering;

21 (M) Promoting prostitution in the first degree;

22 (N) Promoting prostitution in the second degree;



- 1 (O) Promoting prostitution in the third degree;
- 2 (P) Abuse of family or household members;
- 3 (Q) Sexual assault in the second degree;
- 4 (R) Sexual assault in the third degree;
- 5 (S) A violation of an order issued pursuant to
- 6 chapter 586;
- 7 (T) Promoting child abuse in the second degree;
- 8 (U) Promoting child abuse in the third degree;
- 9 (V) Electronic enticement of a child in the first
- 10 degree; [øæ]
- 11 (W) Electronic enticement of a child in the second
- 12 degree; or
- 13 (X) Street solicitation of prostitution;
- 14 (14) The defendant has been charged with:
  - 15 (A) Knowingly or intentionally falsifying any report
  - 16 required under chapter 11, subpart B of part XII,
  - 17 with the intent to circumvent the law or deceive
  - 18 the campaign spending commission; or
  - 19 (B) Violating section 11-201 or 11-202; or
- 20 (15) The defendant holds a commercial driver's license and
- 21 has been charged with violating a traffic control law,



# H.B. NO. 2713

1           other than a parking law, in connection with the  
2           operation of any type of motor vehicle.

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

4           SECTION 2. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun, before its effective date.

7           SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

*Calvin K. Boy*

BY REQUEST

JAN 18 2008



**Report Title:**

Sentencing; Deferred Acceptance of Plea

**Description:**

Adds street solicitation of prostitution to the offenses for which a defendant may not seek deferred acceptance of a guilty or no contest plea.

