

JAN 22 2007

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 sentenced to probation or has



1 been granted deferred acceptance of guilty plea status
2 for a prior offense, regardless of whether the period
3 of probation or deferral has already expired;

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

10 (13) The offense charged is:

- 11 (A) Escape in the first degree;
- 12 (B) Escape in the second degree;
- 13 (C) Promoting prison contraband in the first degree;
- 14 (D) Promoting prison contraband in the second degree;
- 15 (E) Bail jumping in the first degree;
- 16 (F) Bail jumping in the second degree;
- 17 (G) Bribery;
- 18 (H) Bribery of a witness;
- 19 (I) Intimidating a witness;
- 20 (J) Bribery of or by a juror;
- 21 (K) Intimidating a juror;
- 22 (L) Jury tampering;



- 1 (M) Promoting prostitution in the first degree;
- 2 (N) Promoting prostitution in the second degree;
- 3 (O) Promoting prostitution in the third degree;
- 4 (P) Abuse of family or household members;
- 5 (Q) Sexual assault in the second degree;
- 6 (R) Sexual assault in the third degree;
- 7 (S) A violation of an order issued pursuant to
- 8 chapter 586;
- 9 (T) Promoting child abuse in the second degree;
- 10 (U) Promoting child abuse in the third degree;
- 11 (V) Electronic enticement of a child in the first
- 12 degree;
- 13 (W) Electronic enticement of a child in the second
- 14 degree; or
- 15 (14) The defendant has been charged with:
 - 16 (A) Knowingly or intentionally falsifying any report
 - 17 required under chapter 11, subpart B of part XII,
 - 18 with the intent to circumvent the law or deceive
 - 19 the campaign spending commission; or
 - 20 (B) Violating section 11-201 or 11-202.
- 21 The court may adopt by rule other criteria in this area."



Report Title:

Sentence; Probation

Description:

Adds the condition of having been sentenced to probation to those under which criminal procedure requiring deferred acceptance of guilty plea and nolo contendere plea are not applicable.

