
A BILL FOR AN ACT

RELATING TO TRAFFIC SAFETY.

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

1 SECTION 1. The legislature finds that pedestrian deaths
2 caused by negligent drivers are a longstanding problem on
3 Hawaii's roadways. Of particular concern are cases involving
4 negligent homicide in the third degree, where a person operating
5 a vehicle causes the death of another person through simple
6 negligence.

7 The legislature finds that between 2003 and 2006, sixteen
8 defendants pleaded guilty or no contest to negligent homicide in
9 the third degree. Fourteen of those defendants, or eighty-seven
10 and one-half per cent, received no prison time as part of their
11 sentence, and all but three were granted deferred acceptance of
12 guilty pleas or deferred acceptance of nolo contendere pleas.
13 When a deferred acceptance plea is granted, the negligent
14 homicide charge is dismissed and the defendant is discharged if
15 the defendant is able to comply with the terms of probation-like
16 court supervision for a period not to exceed a year. In these
17 situations, the defendant is not considered to have been
18 convicted. A defendant who has been discharged can apply to



1 have the negligent homicide charge expunged from the defendant's
2 record one year after dismissal of the charge.

3 The purpose of this Act is to protect the public by
4 preventing the use of deferred acceptance of guilty pleas and
5 deferred acceptance of nolo contendere pleas in cases involving
6 defendants charged with negligent homicide in the third degree.

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

9 "**§853-4 Chapter not applicable; when.** This chapter shall
10 not apply when:

11 (1) The offense charged involves the [~~intentional,~~
12 ~~knowing, reckless, or negligent~~] killing of another
13 person;

14 (2) The offense charged is:

15 (A) A felony that involves the intentional, knowing,
16 or reckless bodily injury, substantial bodily
17 injury, or serious bodily injury of another
18 person; or

19 (B) A misdemeanor or petty misdemeanor that carries a
20 mandatory minimum sentence and that involves the
21 intentional, knowing, or reckless bodily injury,



1 substantial bodily injury, or serious bodily
2 injury of another person;

3 (3) The offense charged involves a conspiracy or
4 solicitation to intentionally, knowingly, or
5 recklessly kill another person or to cause serious
6 bodily injury to another person;

7 (4) The offense charged is a class A felony;

8 (5) The offense charged is nonprobationable;

9 (6) The defendant has been convicted of any offense
10 defined as a felony by the Hawaii [~~Penal Code~~] penal
11 code or has been convicted for any conduct that if
12 perpetrated in this State would be punishable as a
13 felony;

14 (7) The defendant is found to be a law violator or
15 delinquent child for the commission of any offense
16 defined as a felony by the Hawaii [~~Penal Code~~] penal
17 code or for any conduct that if perpetrated in this
18 State would constitute a felony;

19 (8) The defendant has a prior conviction for a felony
20 committed in any state, federal, or foreign
21 jurisdiction;



1 (9) A firearm was used in the commission of the offense
2 charged;

3 (10) The defendant is charged with the distribution of a
4 dangerous, harmful, or detrimental drug to a minor;

5 (11) The defendant has been charged with a felony offense
6 and has been previously granted deferred acceptance of
7 guilty plea status for a prior offense, regardless of
8 whether the period of deferral has already expired;

9 (12) The defendant has been charged with a misdemeanor
10 offense and has been previously granted deferred
11 acceptance of guilty plea status for a prior felony,
12 misdemeanor, or petty misdemeanor for which the period
13 of deferral has not yet expired;

14 (13) The offense charged is:

15 (A) Escape in the first degree;

16 (B) Escape in the second degree;

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

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

19 (E) Bail jumping in the first degree;

20 (F) Bail jumping in the second degree;

21 (G) Bribery;

22 (H) Bribery of or by a witness;



- 1 (I) Intimidating a witness;
- 2 (J) Bribery of or by a juror;
- 3 (K) Intimidating a juror;
- 4 (L) Jury tampering;
- 5 (M) Promoting prostitution in the first degree;
- 6 (N) Promoting prostitution in the second degree;
- 7 (O) Abuse of family or household members;
- 8 (P) Sexual assault in the second degree;
- 9 (Q) Sexual assault in the third degree;
- 10 (R) A violation of ~~[an]~~ a protective order issued
- 11 pursuant to chapter 586;
- 12 (S) Promoting child abuse in the second degree;
- 13 (T) Promoting child abuse in the third degree;
- 14 (U) Electronic enticement of a child in the first
- 15 degree; or
- 16 (V) Electronic enticement of a child in the second
- 17 degree;
- 18 (14) The defendant has been charged with:
- 19 (A) Knowingly or intentionally falsifying any report
- 20 required under chapter 11, part XIII with the
- 21 intent to circumvent the law or deceive the
- 22 campaign spending commission; or



1 (B) Violating section 11-352 or 11-353; or
2 (15) The defendant holds a commercial driver's license and
3 has been charged with violating a traffic control law,
4 other than a parking law, in connection with the
5 operation of any type of motor vehicle.


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

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun, before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:  _____

JAN 25 2012



Report Title:

Negligent Homicide; Criminal Procedure

Description:

Prohibits the use of deferred acceptance of guilty pleas or deferred acceptance of nolo contendere pleas by defendants charged with negligent homicide in the third degree.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

