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## A BILL FOR AN ACT

RELATING TO CRIMINAL PROCEDURE.

**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.** (a) This chapter  
4 shall 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 defendant has been charged with a petty  
9 misdemeanor offense and has been previously granted  
10 deferred acceptance of guilty plea status for a prior  
11 felony, misdemeanor, or petty misdemeanor for which  
12 the term of deferral has not yet expired;

13 [~~13~~] (14) The offense charged is:

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



- 1 (J) Bribery of or by a juror;
- 2 (K) Intimidating a juror;
- 3 (L) Jury tampering;
- 4 (M) Promoting prostitution in the first degree;
- 5 (N) Promoting prostitution in the second degree;
- 6 (O) Abuse of family or household members;
- 7 (P) Sexual assault in the second degree;
- 8 (Q) Sexual assault in the third degree;
- 9 (R) A violation of an order issued pursuant to
- 10 chapter 586;
- 11 (S) Promoting child abuse in the second degree;
- 12 (T) Promoting child abuse in the third degree;
- 13 (U) Electronic enticement of a child in the first
- 14 degree; [~~e~~]
- 15 (V) Electronic enticement of a child in the second
- 16 degree;
- 17 (W) Prostitution pursuant to section 712-1200(1)(b);
- 18 (X) Street solicitation of prostitution under section
- 19 712-1207(1)(b);
- 20 (Y) Solicitation of prostitution near schools or
- 21 public parks under section 712-1209; or



- 1            (Z) Habitual solicitation of prostitution under
- 2            section 712-1209.5;
- 3        [~~(14)~~] (15) The defendant has been charged with:
- 4            (A) Knowingly or intentionally falsifying any report
- 5            required under chapter 11, part XIII with the
- 6            intent to circumvent the law or deceive the
- 7            campaign spending commission; or
- 8            (B) Violating section 11-352 or 11-353; or
- 9        [~~(15)~~] (16) The defendant holds a commercial driver's
- 10        license and has been charged with violating a traffic
- 11        control law, other than a parking law, in connection
- 12        with the operation of any type of motor vehicle.
- 13        (b) The court may adopt by rule other criteria [~~in this~~
- 14 ~~area.]~~ for purposes of this section."

15            SECTION 2. This Act does not affect rights and duties that

16 matured, penalties that were incurred, and proceedings that were

17 begun before its effective date.

18            SECTION 3. Statutory material to be repealed is bracketed

19 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

*John M. P. [Signature]*

JAN 19 2013



**Report Title:**

Criminal Procedure; Deferred Acceptance of Guilty Pleas

**Description:**

Excludes certain offenses from eligibility to be granted a deferred acceptance of guilty plea.

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

