

---

---

# A BILL FOR AN ACT

RELATING TO VIOLATION OF PRIVACY.

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

1           SECTION 1. Section 853-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) This chapter shall not apply when:

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

6           (2) The offense charged is:

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

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

16           provided that the prohibition in this paragraph shall  
17           not apply to offenses described in

18           section 709-906(18);



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



- 1 (10) The defendant is charged with the distribution of a  
2 dangerous, harmful, or detrimental drug to a minor;
- 3 (11) The defendant has been charged with a felony offense  
4 and has been previously granted deferred acceptance of  
5 guilty plea or no contest plea for a prior offense,  
6 regardless of whether the period of deferral has  
7 already expired;
- 8 (12) The defendant has been charged with a misdemeanor  
9 offense and has been previously granted deferred  
10 acceptance of guilty plea or no contest plea for a  
11 prior felony, misdemeanor, or petty misdemeanor for  
12 which the period of deferral has not yet expired;
- 13 (13) 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;



- 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;
- 6 (N) Abuse of family or household member except as
- 7 provided in paragraph (2) and
- 8 section 709-906(18);
- 9 (O) Sexual assault in the second degree;
- 10 (P) Sexual assault in the third degree;
- 11 (Q) A violation of an order issued pursuant to
- 12 chapter 586;
- 13 (R) Promoting child abuse in the second degree;
- 14 (S) Promoting child abuse in the third degree;
- 15 (T) Electronic enticement of a child in the first
- 16 degree;
- 17 (U) Electronic enticement of a child in the second
- 18 degree;
- 19 (V) Prostitution pursuant to section 712-1200(1)(b);
- 20 (W) Street solicitation of prostitution under
- 21 section 712-1207(1)(b);



- 1 (X) Solicitation of prostitution near schools or
- 2 public parks under section 712-1209;
- 3 (Y) Habitual solicitation of prostitution under
- 4 section 712-1209.5; [~~or~~]
- 5 (Z) Solicitation of a minor for prostitution under
- 6 section 712-1209.1;
- 7 (AA) Violation of privacy in the first degree under
- 8 section 711-1110.9; or
- 9 (BB) Violation of privacy in the second degree under
- 10 section 711-1111(1)(d), (e), (f), (g), or (h);
- 11 (14) The defendant has been charged with:
  - 12 (A) Knowingly or intentionally falsifying any report
  - 13 required under chapter 11, part XIII with the
  - 14 intent to circumvent the law or deceive the
  - 15 campaign spending commission; or
  - 16 (B) Violating section 11-352 or 11-353; or
- 17 (15) The defendant holds a commercial driver's license and
- 18 has been charged with violating a traffic control law,
- 19 other than a parking law, in connection with the
- 20 operation of any type of motor vehicle."



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

4           SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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



**Report Title:**

Honolulu Prosecuting Attorney Package; Violation of Privacy;  
Penalties

**Description:**

Excludes violation of privacy in the first degree, and certain subsections of violation of privacy in the second degree, from qualifying for deferred acceptance of guilty plea or nolo contendere plea. (CD1)

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

