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# A BILL FOR AN ACT

RELATING TO GAMBLING.

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

1       SECTION 1. The legislature finds that violent activity in  
2       and around illegal gambling houses has grown rampant in recent  
3       years, with reports of armed robberies, stabbings, and shootings  
4       becoming all too common. There have been reports of "turf wars"  
5       between factions, vying for security work at these  
6       establishments, which have resulted in multiple killings.

7       The legislature further finds that aside from physical  
8       violence, illegal gambling houses are known for being drug and  
9       sex trafficking establishments, as reflected by a report  
10      published on February 1, 2021, by the Hawaii state commission on  
11      the status of women. Citing a 2019 study conducted jointly with  
12      Arizona State University, the report found that twenty-two per  
13      cent of twenty-two sex trafficking victims were exploited in  
14      illegal game rooms in the State. A first-hand account stated  
15      that they would go to illegal game rooms around town and find  
16      drug dealers present. Another first-hand account stated they  
17      were responsible for moving young sex-trafficking victims, all



1 under twenty-five years of age, who were on heroin and living in  
2 illegal game rooms as runaways from abusive homes. Due to these  
3 testimonies, the legislature believes that illegal gambling  
4 houses have a profoundly negative impact on communities across  
5 the State, particularly in residential neighborhoods.

6 The legislature further finds that existing law makes it  
7 nearly impossible for law enforcement to prosecute property  
8 owners whose properties are used as illegal gambling houses.  
9 Even if the same property owner repeatedly leases their property  
10 to individuals who use it as an illegal gambling house, there is  
11 practically no way to establish a property owner's knowing state  
12 of mind, if they do not visit the property and purportedly has  
13 no inclination of illegal gambling activities happening on their  
14 property. Individuals who work at illegal gambling  
15 establishments as cashiers, security, or similarly culpable jobs  
16 are typically charged under promoting gambling in the second  
17 degree, which is a misdemeanor. In comparison, promoting  
18 prostitution is a class B felony and applies to those with  
19 arguably less involvement in the business enterprise, such as  
20 drivers who refer passengers to a commercial sex worker for  
21 "kickbacks". The legislature believes that a misdemeanor level



1 offense is inconsistent with the dangerous effects that illegal  
2 gambling houses have on the surrounding communities.

3 In order to guard the safety and welfare of the State's  
4 citizens, and particularly residential neighborhoods, illegal  
5 gambling houses cannot be tolerated any longer and existing laws  
6 relating to the promotion of gambling need to be strengthened to  
7 deter and punish those who put the State's citizens at risk.

8 While the legislature believes that existing laws needs to  
9 be strengthened, it is not the intent to affect the significant  
10 exception that currently exists for social gambling as provided  
11 under section 712-1231, Hawaii Revised Statutes; and existing  
12 exceptions for trading securities or commodities, selling or  
13 purchasing insurance, and any other exceptions provided under  
14 section 712-1220, Hawaii Revised Statutes. It is the intent of  
15 the legislature to only affect the promotion of illegal  
16 gambling.

17 Accordingly, the purpose of this Act is to:

- 18 (1) Amend the offenses of promoting gambling in the first  
19 and second degree to a class B felony and class C  
20 felony, respectively; and



(2) Exclude the offenses of promoting gambling in the first and second degree from qualifying for deferred acceptance of guilty plea or nolo contendere plea.

SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies:

(a) Section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition;

(b) Section 134-8 relating to ownership, etc., of certain prohibited weapons;

(c) Section 134-17 only as it relates to providing false information or evidence to obtain a permit under section 134-9;

(d) Section 188-23 relating to possession or use of explosives, electrofishing devices, and poisonous substances in state waters;



- 1 (e) Section 386-98(d) (1) relating to fraud violations and  
2 penalties;
- 3 (f) Section 431:2-403(b) (2) relating to insurance fraud;
- 4 (g) Section 707-703 relating to negligent homicide in the  
5 second degree;
- 6 (h) Section 707-711 relating to assault in the second  
7 degree;
- 8 (i) Section 707-713 relating to reckless endangering in  
9 the first degree;
- 10 (j) Section 707-716 relating to terroristic threatening in  
11 the first degree;
- 12 (k) Section 707-721 relating to unlawful imprisonment in  
13 the first degree;
- 14 (l) Section 707-732 relating to sexual assault in the  
15 third degree;
- 16 (m) Section 707-752 relating to promoting child abuse in  
17 the third degree;
- 18 (n) Section 707-757 relating to electronic enticement of a  
19 child in the second degree;
- 20 (o) Section 707-766 relating to extortion in the second  
21 degree;



- 1 (p) Section 708-811 relating to burglary in the second  
2 degree;
- 3 (q) Section 708-821 relating to criminal property damage  
4 in the second degree;
- 5 (r) Section 708-831 relating to theft in the second  
6 degree;
- 7 (s) Section 708-835.5 relating to theft of livestock;
- 8 (t) Section 708-836 relating to unauthorized control of  
9 propelled vehicle;
- 10 (u) Section 708-839.55 relating to unauthorized possession  
11 of confidential personal information;
- 12 (v) Section 708-839.8 relating to identity theft in the  
13 third degree;
- 14 (w) Section 708-852 relating to forgery in the second  
15 degree;
- 16 (x) Section 708-854 relating to criminal possession of a  
17 forgery device;
- 18 (y) Section 708-875 relating to trademark counterfeiting;
- 19 (z) Section 710-1071 relating to intimidating a witness;
- 20 (aa) Section 711-1103 relating to riot;



1 (bb) Section [~~712-1221~~] 712-1222 relating to promoting  
2 gambling in the [~~first~~] second degree;  
3 (cc) Section 712-1224 relating to possession of gambling  
4 records in the first degree;  
5 (dd) Section 712-1247 relating to promoting a detrimental  
6 drug in the first degree; or  
7 (ee) Section 846E-9 relating to failure to comply with  
8 covered offender registration requirements,  
9 or who is convicted of attempting to commit murder in the second  
10 degree, any class A felony, any class B felony, or any of the  
11 class C felony offenses enumerated above and who has a prior  
12 conviction or prior convictions for the following felonies,  
13 including an attempt to commit the same: murder, murder in the  
14 first or second degree, a class A felony, a class B felony, any  
15 of the class C felony offenses enumerated above, or any felony  
16 conviction of another jurisdiction, shall be sentenced to a  
17 mandatory minimum period of imprisonment without possibility of  
18 parole as provided in subsection (2)."

19 SECTION 3. Section 712-1221, Hawaii Revised Statutes, is  
20 amended by amending subsection (2) to read as follows:



1       "(2) Promoting gambling in the first degree is a class [E]  
2 B felony."

3       SECTION 4. Section 712-1222, Hawaii Revised Statutes, is  
4 amended by amending subsection (2) to read as follows:

5       "(2) Promoting gambling in the second degree is a  
6 [~~misdemeanor~~] class C felony."

7       SECTION 5. Section 853-4, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

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

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

12       (2) The offense charged is:

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

17       (B) A misdemeanor or petty misdemeanor that carries a  
18       mandatory minimum sentence and that involves the  
19       intentional, knowing, or reckless bodily injury,  
20       substantial bodily injury, or serious bodily  
21       injury of another person;





provided that the prohibition in this paragraph shall not apply to offenses described in section 709-906(18);

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

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

(5) The offense charged is nonprobationable;

(6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;

(7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;

(8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign 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 or no contest plea for a prior offense,  
8           regardless of whether the period of deferral has  
9           already expired;
- 10          (12) The defendant has been charged with a misdemeanor  
11          offense and has been previously granted deferred  
12          acceptance of guilty plea or no contest plea for a  
13          prior felony, misdemeanor, or petty misdemeanor for  
14          which the period of deferral has not yet expired;
- 15          (13) The offense charged is:
- 16                (A) Escape in the first degree;
- 17                (B) Escape in the second degree;
- 18                (C) Promoting prison contraband in the first degree;
- 19                (D) Promoting prison contraband in the second degree;
- 20                (E) Bail jumping in the first degree;
- 21                (F) Bail jumping in the second degree;



- 1 (G) Bribery;
- 2 (H) Bribery of or by a witness;
- 3 (I) Intimidating a witness;
- 4 (J) Bribery of or by a juror;
- 5 (K) Intimidating a juror;
- 6 (L) Jury tampering;
- 7 (M) Promoting prostitution;
- 8 (N) Abuse of family or household member except as
- 9 provided in paragraph (2) and section 709-
- 10 906(18);
- 11 (O) Sexual assault in the second degree;
- 12 (P) Sexual assault in the third degree;
- 13 (Q) A violation of an order issued pursuant to
- 14 chapter 586;
- 15 (R) Promoting child abuse in the second degree;
- 16 (S) Promoting child abuse in the third degree;
- 17 (T) Electronic enticement of a child in the first
- 18 degree;
- 19 (U) Electronic enticement of a child in the second
- 20 degree;



- 1 (V) Commercial sexual exploitation pursuant to  
2 section 712-1200.5;
- 3 (W) Street prostitution and commercial sexual  
4 exploitation under section 712-1207(1)(b) or  
5 (2)(b);
- 6 (X) Commercial sexual exploitation near schools or  
7 public parks under section 712-1209;
- 8 (Y) Commercial sexual exploitation of a minor under  
9 section 712-1209.1; ~~[or]~~
- 10 (Z) Habitual commercial sexual exploitation under  
11 section 712-1209.5;
- 12 (AA) Violation of privacy in the first degree under  
13 section 711-1110.9;
- 14 (BB) Violation of privacy in the second degree under  
15 section 711-1111(1)(d), (e), (f), (g), or (h);  
16 ~~[or]~~
- 17 ~~[+]~~ (CC) ~~[+]~~ Habitually operating a vehicle under the  
18 influence of an intoxicant under section 291E-  
19 61.5(a);
- 20 (DD) Promoting gambling in the first degree; or
- 21 (EE) Promoting gambling in the second degree;



1 (14) The defendant has been charged with:

2 (A) Knowingly or intentionally falsifying any report  
3 required under part XIII of chapter 11, with the  
4 intent to circumvent the law or deceive the  
5 campaign spending commission; or

6 (B) Violating section 11-352 or 11-353; or

7 (15) The defendant holds a commercial driver's license and  
8 has been charged with violating a traffic control law,  
9 other than a parking law, in connection with the  
10 operation of any type of motor vehicle."

11 SECTION 6. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval;  
17 provided that the amendments made to section 853-4, Hawaii  
18 Revised Statutes, by section 5 of this Act shall not be repealed  
19 when that section is reenacted on June 30, 2026, pursuant to  
20 section 15 of Act 19, Session Laws of Hawaii 2020.

21



**Report Title:**

Criminal Offense; Promoting Gambling; Criminal Procedure

**Description:**

Amends the offenses of promoting gambling in the first and second degree to a class B felony and class C felony, respectively. Excludes the offenses of promoting gambling in the first and second degree from qualifying for deferred acceptance of guilty plea or nolo contendere plea. (HD1)

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