
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. This Act shall be known as the "Child and Adult
2 Protection and Safety Act of 2008."

3 SECTION 2. Chapter 707, Hawaii Revised Statutes, is
4 amended by adding two new sections to part VI to be
5 appropriately designated and to read as follows:

6 "§707-A Electronic enticement of a child in the third
7 degree. (1) Any person who knowingly uses a computer online
8 service, Internet service, or any other device capable of
9 electronic data storage or transmission to solicit, lure, or
10 entice, or attempt to solicit, lure, or entice:

11 (a) A minor known by the person to be under the age of
12 eighteen years;

13 (b) Another person, in reckless disregard of the risk that
14 the other person is under the age of eighteen years,
15 and the other person is under the age of eighteen
16 years; or

17 (c) Another person who represents that person to be under
18 the age of eighteen years,



1 to engage in sexual conduct with intent to promote or facilitate
2 the commission of another covered offense as defined in section
3 846E-1, and agrees to meet with the minor, or with another
4 person who represents that person to be a minor under the age of
5 eighteen years, is guilty of electronic enticement of a child in
6 the third degree.

7 (2) Electronic enticement of a child in the third degree
8 is a misdemeanor.

9 (3) Each separate use of a computer online service,
10 Internet service, or any other device capable of electronic data
11 storage or transmission wherein an offense described in this
12 section is committed may be charged as a separate offense.

13 (4) As used in this section, "sexual conduct" means acts
14 of sexual penetration, sexual contact, or masturbation.

15 **§707-B Indecent electronic display to a child.** (1) Any
16 person who intentionally masturbates or intentionally exposes
17 the genitals in a lewd or lascivious manner live over a computer
18 online service, Internet service, or local bulletin board
19 service and who knows that the transmission is viewed on a
20 computer or other electronic device by:

21 (a) A minor known by the person to be under the age of
22 eighteen years; or



1 (b) Another person who represents that person to be under
2 the age of eighteen years,
3 is guilty of indecent electronic display to a child.

4 (2) Indecent electronic display to a child is a class C
5 felony."

6 SECTION 3. Section 706-606.5, Hawaii Revised Statutes, is
7 amended by amending subsection (1) to read as follows:

8 "(1) Notwithstanding section 706-669 and any other law to
9 the contrary, any person convicted of murder in the second
10 degree, any class A felony, any class B felony, or any of the
11 following class C felonies: section 188-23 relating to
12 possession or use of explosives, electrofishing devices, and
13 poisonous substances in state waters; section 386-98(d)(1)
14 relating to fraud violations and penalties; section 431:10A-
15 131(b)(2) relating to insurance fraud; section 431:10C-
16 307.7(b)(2) relating to insurance fraud; section 432:1-106(b)(2)
17 relating to insurance fraud; section 432D-18.5(b)(2) relating to
18 insurance fraud; section 707-703 relating to negligent homicide
19 in the second degree; section 707-711 relating to assault in the
20 second degree; section 707-713 relating to reckless endangering
21 in the first degree; section 707-716 relating to terroristic
22 threatening in the first degree; section 707-721 relating to



1 unlawful imprisonment in the first degree; section 707-732
2 relating to sexual assault or rape in the third degree; section
3 707-752 relating to promoting child abuse in the third degree;
4 section 707-757 relating to electronic enticement of a child in
5 the second degree; section 707-B relating to indecent electronic
6 display to a child; section 707-766 relating to extortion in the
7 second degree; section 708-811 relating to burglary in the
8 second degree; section 708-821 relating to criminal property
9 damage in the second degree; section 708-831 relating to theft
10 in the first degree as amended by Act 68, Session Laws of Hawaii
11 1981; section 708-831 relating to theft in the second degree;
12 section 708-835.5 relating to theft of livestock; section 708-
13 836 relating to unauthorized control of propelled vehicle;
14 section 708-839.8 relating to identity theft in the third
15 degree; section 708-839.55 relating to unauthorized possession
16 of confidential personal information; section 708-852 relating
17 to forgery in the second degree; section 708-854 relating to
18 criminal possession of a forgery device; section 708-875
19 relating to trademark counterfeiting; section 710-1071 relating
20 to intimidating a witness; section 711-1103 relating to riot;
21 section 712-1203 relating to promoting prostitution in the
22 second degree; section 712-1221 relating to gambling in the



1 first degree; section 712-1224 relating to possession of
2 gambling records in the first degree; section 712-1243 relating
3 to promoting a dangerous drug in the third degree; section 712-
4 1247 relating to promoting a detrimental drug in the first
5 degree; section 846E-9 relating to failure to comply with
6 covered offender registration requirements; section 134-7
7 relating to ownership or possession of firearms or ammunition by
8 persons convicted of certain crimes; section 134-8 relating to
9 ownership, etc., of prohibited weapons; section 134-9 relating
10 to permits to carry, or who is convicted of attempting to commit
11 murder in the second degree, any class A felony, any class B
12 felony, or any of the class C felony offenses enumerated above
13 and who has a prior conviction or prior convictions for the
14 following felonies, including an attempt to commit the same:
15 murder, murder in the first or second degree, a class A felony,
16 a class B felony, any of the class C felony offenses enumerated
17 above, or any felony conviction of another jurisdiction, shall
18 be sentenced to a mandatory minimum period of imprisonment
19 without possibility of parole during such period as follows:
20 (a) One prior felony conviction:



- 1 (i) Where the instant conviction is for murder in the
2 second degree or attempted murder in the second
3 degree-ten years;
- 4 (ii) Where the instant conviction is for a class A
5 felony-six years, eight months;
- 6 (iii) Where the instant conviction is for a class B
7 felony-three years, four months;
- 8 (iv) Where the instant conviction is for a class C
9 felony offense enumerated above-one year, eight
10 months;
- 11 (b) Two prior felony convictions:
- 12 (i) Where the instant conviction is for murder in the
13 second degree or attempted murder in the second
14 degree-twenty years;
- 15 (ii) Where the instant conviction is for a class A
16 felony-thirteen years, four months;
- 17 (iii) Where the instant conviction is for a class B
18 felony-six years, eight months;
- 19 (iv) Where the instant conviction is for a class C
20 felony offense enumerated above-three years,
21 four months;
- 22 (c) Three or more prior felony convictions:



- 1 (i) Where the instant conviction is for murder in the
- 2 second degree or attempted murder in the second
- 3 degree-thirty years;
- 4 (ii) Where the instant conviction is for a class A
- 5 felony-twenty years;
- 6 (iii) Where the instant conviction is for a class B
- 7 felony-ten years;
- 8 (iv) Where the instant conviction is for a class C
- 9 felony offense enumerated above-five years."

10 SECTION 4. Section 707-756, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§707-756 Electronic enticement of a child in the first**
13 **degree.** (1) Any person who, using a computer or any other
14 electronic device:

- 15 (a) Intentionally or knowingly communicates:
 - 16 (i) With a minor known by the person to be under the
 - 17 age of eighteen years;
 - 18 (ii) With another person, in reckless disregard of the
 - 19 risk that the other person is under the age of
 - 20 eighteen years, and the other person is under the
 - 21 age of eighteen years; or

- 1 (iii) With another person who represents that person to
2 be under the age of eighteen years; and
- 3 (b) With the intent to promote or facilitate the
4 commission of a felony:
- 5 (i) That is a murder in the first or second degree;
6 (ii) That is a class A felony; or
7 (iii) That is ~~[an]~~ another covered offense as defined
8 in section 846E-1[+],
9 agrees to meet with the minor, or with another person
10 who represents that person to be a minor under the age
11 of eighteen years; and
- 12 (c) Intentionally or knowingly travels to the agreed upon
13 meeting place at the agreed upon meeting time[+],
14 is guilty of electronic enticement of a child in the first
15 degree.
- 16 (2) Electronic enticement of a child in the first degree
17 is a class B felony. Notwithstanding any law to the contrary,
18 ~~[if a person sentenced under this section is sentenced to~~
19 ~~probation rather than]~~ a person convicted of electronic
20 enticement of a child in the first degree shall be sentenced to
21 an indeterminate term of imprisonment ~~[, the terms and conditions~~
22 ~~of probation shall include, but not be limited to, a term of~~



1 ~~imprisonment of one year.]~~ as provided by law, subject to a
2 mandatory minimum of one year imprisonment."

3 SECTION 5. Section 846E-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Clean record" means no conviction for a felony or covered
8 offense, if placed on probation or parole, completion of
9 probation or parole without more than one revocation, and, for
10 sex offenders, successful completion of an appropriate sex
11 offender treatment program, if such program was ordered."

12 2. By amending the definitions of "crime against minors,"
13 "registration information," and "sexual offense" to read:

14 "'Crime against minors' [~~7~~] excludes "sexual offenses" as
15 defined in this section and means a criminal offense that
16 consists of:

17 (1) Kidnapping of a minor, [~~except~~] by someone other than
18 a parent;

19 (2) Unlawful imprisonment in the first or second degree
20 that involves the unlawful imprisonment of a minor [~~7~~
21 ~~except~~] by someone other than a parent;



1 (3) An act, as described in chapter 705, that is an
2 attempt, criminal solicitation, or criminal conspiracy
3 to commit one of the offenses designated in paragraph
4 (1) or (2); or

5 (4) A criminal offense that is comparable to or which
6 exceeds one of the offenses designated in paragraphs
7 (1) through (3) or any federal, military, or out-of-
8 state conviction for any offense that, under the laws
9 of this State would be a crime against minors as
10 designated in paragraphs (1) through (3).

11 "Registration information" means the information specified
12 in section [~~846E-2(e)~~] 846E-2(d) and (e)."

13 "Sexual offense" means an offense that is:

14 (1) Set forth in section 707-730(1)(a), 707-730(1)(b),
15 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a),
16 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-
17 732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-
18 732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6,
19 [~~or~~] 712-1202(1)(b), or 712-1203(1)(b), but excludes
20 conduct that is criminal only because of the age of
21 the victim, as provided in section 707-730(1)(b), or



- 1 section 707-732(1)(b) if the perpetrator is under the
2 age of eighteen;
- 3 (2) An act defined in section 707-720 if the charging
4 document for the offense for which there has been a
5 conviction alleged intent to subject the victim to a
6 sexual offense;
- 7 (3) An act that consists of:
- 8 (A) Criminal sexual conduct toward a minor~~[+]~~,
9 including but not limited to an offense set forth
10 in section 707-B;
- 11 (B) Solicitation of a minor who is less than fourteen
12 years old to engage in sexual conduct;
- 13 (C) Use of a minor in a sexual performance;
- 14 (D) Production, distribution, or possession of child
15 pornography chargeable as a felony under section
16 707-750, 707-751, or 707-752;
- 17 (E) Electronic enticement of a child chargeable [~~as a~~
18 ~~felony~~] under section 707-756 [~~or~~], 707-757, or
19 707-A, if the [act involves:
20 ~~(i) Sexual conduct;~~
21 ~~(ii) Attempted sexual conduct; or~~
22 ~~(iii) A proposal to engage in sexual conduct;]~~



1 offense was committed with the intent to promote
2 or facilitate the commission of another covered
3 offense as defined in section 846E-1; or

4 (F) Solicitation of a minor to practice prostitution;

5 (4) A criminal offense that is comparable to or that
6 exceeds a sexual offense as defined in paragraphs (1)
7 through (3) or any federal, military, or out-of-state
8 conviction for any offense that under the laws of this
9 State would be a sexual offense as defined in
10 paragraphs (1) through (3); or

11 (5) An act, as described in chapter 705, that is an
12 attempt, criminal solicitation, or criminal conspiracy
13 to commit one of the offenses designated in paragraphs
14 (1) through (4)."

15 3. By repealing the definitions of "aggravated sex
16 offender," "aggravated sexual offense," and "sexually violent
17 predator":

18 ~~["Aggravated sex offender" means:~~
19 ~~(1) A person convicted of an "aggravated sexual offense"~~
20 ~~as defined in this section; or~~
21 ~~(2) A person who is charged with an "aggravated sexual~~
22 ~~offense" as defined in this section and found unfit to~~



1 ~~proceed and is released into the community or~~
2 ~~acquitted due to a physical or mental disease,~~
3 ~~disorder, or defect pursuant to chapter 704 and is~~
4 ~~released into the community.~~

5 ~~"Aggravated sexual offense" means:~~

6 ~~(1) A criminal offense described in section 707-730(1)(a),~~
7 ~~707-730(1)(b), 707-731(1)(b), 707-732(1)(b),~~
8 ~~707-732(1)(f), and 707-733.6, but excludes conduct~~
9 ~~that is criminal only because of the age of the~~
10 ~~victim, if the perpetrator is under the age of~~
11 ~~eighteen;~~

12 ~~(2) A criminal offense that is comparable to one of the~~
13 ~~offenses designated in paragraph (1) or any federal,~~
14 ~~military, or out of state offense that, under the laws~~
15 ~~of this State would be an aggravated sexual offense as~~
16 ~~designated in paragraph (1); or~~

17 ~~(3) An act, as described in chapter 705, that is an~~
18 ~~attempt, criminal solicitation, or criminal conspiracy~~
19 ~~to commit one of the offenses designated in paragraphs~~
20 ~~(1) or (2).~~

21 ~~"Sexually violent predator" means a person:~~

22 ~~(1) Who is a sex offender; and~~



1 ~~(2) Who suffers from a mental abnormality or personality~~
2 ~~disorder that makes the person likely to engage in~~
3 ~~predatory sexual offenses."~~]

4 SECTION 6. Section 846E-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§846E-2 Registration requirements.** (a) A covered
7 offender shall register with the attorney general and comply
8 with the provisions of this chapter for life or for a shorter
9 period of time as provided in this chapter. A covered offender
10 ~~[who is not:~~

11 ~~(1) An aggravated sex offender;~~

12 ~~(2) A repeat covered offender; and~~

13 ~~(3) A sexually violent predator,]~~

14 shall be eligible to petition the court in a civil proceeding
15 for an order that the covered offender's registration
16 requirements under this chapter be terminated, as provided in
17 section 846E-10.

18 (b) A person who establishes or maintains a residence in
19 this state and who has not been designated as a covered offender
20 by a court of this State but who has been designated as a
21 covered offender, sex offender, offender against minors, repeat
22 covered offender, sexually violent predator, or any other sexual



1 offender designation in another state or jurisdiction and was,
2 as a result of such designation, subjected to registration or
3 community or public notification, or both, or would be if the
4 person was a resident of that state or jurisdiction, without
5 regard to whether the person otherwise meets the criteria for
6 registration as a covered offender, shall register in the manner
7 provided in this section and shall be subject to community and
8 public notification as provided in section 846E-3. A person who
9 meets the criteria of this subsection is subject to the
10 requirements and penalty provisions of section 846E-9 until the
11 person petitions the attorney general for termination of
12 registration requirements by:

13 (1) Providing an order issued by the court that designated
14 the person as a covered offender, sex offender,
15 offender against minors, repeat covered offender,
16 sexually violent predator, or any other sexual
17 offender designation in the state or jurisdiction in
18 which the order was issued, which states that such
19 designation has been removed or demonstrates to the
20 attorney general that such designation, if not imposed
21 by a court, has been removed by operation of law or
22 court order in the state or jurisdiction in which the



1 designation was made, and such person does not meet
2 the criteria for registration as a covered offender
3 under the laws of this State; or

4 (2) Demonstrating that the out-of-state convictions upon
5 which the sexual offender designation was established
6 are not covered offenses under section 846E-1, thereby
7 showing that such person does not meet the criteria
8 for registration as a covered offender under the laws
9 of this State.

10 If the covered offender is not satisfied with the decision of
11 the attorney general on the request for termination of
12 registration requirements, the covered offender may appeal the
13 decision pursuant to chapter 91.

14 [~~(b)~~] (c) Each provision of this chapter applicable to sex
15 offenders shall also be applicable to offenders against minors,
16 unless offenders against minors are specifically excluded.

17 Whenever a covered offender's public information is made
18 publicly accessible, separate registries shall be maintained
19 for:

- 20 (1) Sex offenders; and
21 (2) Offenders against minors.



1 ~~[(e)]~~ (d) Registration information for each covered
2 offender shall ~~[consist of a recent photograph, verified~~
3 ~~fingerprints, and]~~ include a signed statement by the covered
4 offender containing:

- 5 (1) The name, all prior names, nicknames and pseudonyms,
6 and all aliases used by the covered offender or under
7 which the covered offender has been known and other
8 identifying information, including date of birth~~[7]~~
9 and any alias date of birth, social security number~~[7]~~
10 and any alias social security number, sex, race,
11 height, weight, and hair and eye color;
- 12 (2) The actual address and telephone number of the covered
13 offender's residence ~~[or mailing address,7]~~ or any
14 current, temporary address where the covered offender
15 resides, or if an address is not available, a
16 description of the place or area in which the covered
17 offender resides for at least thirty nonconsecutive
18 days within a sixty-day period, and for each address
19 or place where the covered offender resides, how long
20 the covered offender has resided there;
- 21 (3) The actual address or description of the place or
22 area, the actual length of time of the stay, and



1 telephone number where the covered offender is staying
2 for a period of seven or more [~~than ten~~] days, if
3 other than the stated residence;

4 (4) If known, the future address and telephone number
5 where the covered offender is planning to reside, if
6 other than the stated residence;

7 (5) Any electronic mail address, any instant message name,
8 any Internet designation or moniker, and any Internet
9 address used for routing or self-identification;

10 (6) Any cell phone number and other designations used for
11 routing or self-identification in telephonic
12 communications;

13 [~~(5)~~] (7) Names and, if known, actual business addresses of
14 current and known future employers, including
15 information for any place where the covered offender
16 works as a volunteer or otherwise works without
17 remuneration, and the starting and ending dates of any
18 such employment;

19 (8) For covered offenders who may not have a fixed place
20 of employment, a description of the places where such
21 a covered offender works, such as information about



1 normal travel routes or the general area or areas in
2 which the covered offender works;

3 (9) Professional licenses held by the covered offender;

4 ~~(6)~~ (10) Names and actual addresses of current and known
5 future educational institutions with which the covered
6 offender is affiliated in any way, whether or not
7 compensated, including but not limited to affiliation
8 as a faculty member, an employee, or a student, and
9 the starting and ending dates of any such affiliation;

10 ~~(7)~~ (11) The year, make, model, color, and license or
11 registration or other identifying number of all
12 vehicles, including automobiles, watercrafts, and
13 aircrafts, currently owned or operated by the covered
14 offender~~(7)~~ and the address or description of the
15 place or places where the covered offender's vehicle
16 or vehicles are habitually parked, docked, or
17 otherwise kept;

18 (12) Passports and information about the passports, if the
19 covered offender has passports, and documents
20 establishing immigration status and information about
21 these documents, if the covered offender is an alien;



1 ~~[(8)]~~ (13) A statement listing all covered offenses for
2 which the covered offender has been convicted or found
3 unfit to proceed or acquitted pursuant to chapter 704;

4 ~~[(9)]~~ (14) A statement indicating whether the covered
5 offender has received or is currently receiving
6 treatment ordered by a court of competent jurisdiction
7 or by the Hawaii paroling authority;

8 ~~[(10)]~~ (15) A statement indicating whether the covered
9 offender is a United States citizen; and

10 ~~[(11)]~~ (16) Any additional identifying information about the
11 covered offender.

12 (e) The following information shall also be included in
13 the registry for each covered offender:

14 (1) A current photograph of the covered offender;

15 (2) A physical description of the covered offender,
16 including a description of particular identifying
17 characteristics such as scars or tattoos;

18 (3) Confirmation that the covered offender has provided
19 digitized fingerprints and palm prints of the covered
20 offender;

21 (4) Judgment of conviction, judgment of acquittal, or
22 judicial determination of unfitness to proceed



1 documenting the criminal offense or offenses for which
2 the covered offender is registered;

3 (5) The text, or an electronic link to the text, of the
4 provision of law defining the criminal offense or
5 offenses for which the covered offender is registered;

6 (6) The criminal history of the covered offender, or an
7 electronic link to the criminal history, including the
8 date of all arrests and convictions, the status of
9 parole, probation, or supervised release, registration
10 status, and the existence of any outstanding arrest
11 warrants for the covered offender;

12 (7) Confirmation that the covered offender has provided a
13 DNA buccal swab sample as required by chapter 844D;

14 (8) Digitized copies of a valid driver's license or
15 identification card issued to the covered offender, or
16 an electronic link to such records; and

17 (9) Digitized copies of passports and documents
18 establishing immigration status, or an electronic link
19 to such records.

20 [~~d~~] (f) Whenever a covered offender provides
21 registration information, during initial registration as a
22 covered offender or when providing notice of a change in



1 registration information, the covered offender also shall sign a
2 statement verifying that all of the registration information is
3 accurate and current.

4 ~~[(e)]~~ (g) In addition to the requirement under subsection
5 (a) to register with the attorney general and comply with the
6 provisions of this chapter until a court relieves the covered
7 offender of the registration requirements of this chapter, each
8 covered offender shall also register in person with the chief of
9 police where the covered offender resides or is present.

10 Registration under this subsection is for the purpose of
11 providing the covered offender's photograph, fingerprints, and
12 registration information. Registration under this subsection is
13 required whenever the covered offender, whether or not a
14 resident of this ~~[State,]~~ state, remains in this ~~[State]~~ state
15 for more than ~~[ten]~~ seven days or for an aggregate period
16 exceeding thirty days in one calendar year. Covered offenders
17 required to register in person with the chief of police under
18 this subsection shall register no later than three working days
19 after the earliest of:

- 20 (1) Arrival in this ~~[State,]~~ state;
- 21 (2) Release from incarceration;
- 22 (3) Release from commitment;



- 1 (4) Release on furlough;
- 2 (5) Conviction for a covered offense, unless incarcerated;
- 3 (6) Release on probation;
- 4 (7) Placement on parole; or
- 5 (8) Arrival in a county in which the covered offender
- 6 resides or expects to be present for a period
- 7 exceeding [~~ten~~] seven days.

8 In addition to any other requirement to register under this
9 subsection or subsection (a), each covered offender shall report
10 in person every five years until June 30, 2009, and beginning on
11 July 1, 2009, every year, within the thirty-day period following
12 the offender's date of birth, to the chief of police where the
13 covered offender resides [~~for purposes of having a new~~
14 ~~photograph taken.~~], or to such other department or agency that
15 may be designated by the attorney general in rules adopted
16 pursuant to chapter 91 for purposes of the administration of
17 this subsection, and shall review the existing information in
18 the registry that is within the offender's knowledge, correct
19 any information that has changed or is inaccurate, provide any
20 new information that may be required, and allow the police and
21 such other department or agency designated by the attorney
22 general to take a current photograph of the offender.



1 ~~(f)~~ (h) The registration provisions of this section
2 shall apply to all covered offenders without regard to:

- 3 (1) The date of the covered offender's conviction;
- 4 (2) The date of finding, pursuant to chapter 704, of the
5 covered offender's unfitness to proceed; or
- 6 (3) The date of the covered offender's acquittal due to
7 mental disease, disorder, or defect, pursuant to
8 chapter 704."

9 SECTION 7. Section 846E-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§846E-3 Access to registration information.** (a)

12 Registration information shall be disclosed as follows:

- 13 (1) The information shall be disclosed to law enforcement
14 agencies for law enforcement purposes;
- 15 (2) The information shall be disclosed to government
16 agencies conducting confidential background checks;
17 and
- 18 (3) The attorney general and any county police department
19 shall release public information as provided in
20 subsection (b) concerning a specific person required
21 to register under this chapter; provided that the



1 identity of a victim of an offense that requires
2 registration under this chapter shall not be released.

3 (b) For purposes of this section, "public information"
4 means:

5 (1) Name, prior names, nicknames and pseudonyms, and all
6 aliases used by the covered offender or under which
7 the covered offender has been known;

8 (2) The year of the covered offender's date of birth and
9 the year of the covered offender's alias dates of
10 birth;

11 (3) A physical description of the covered offender,
12 including a description of particular identifying
13 characteristics such as scars or tattoos;

14 ~~[(+2)]~~ (4) The actual address where the covered offender
15 resides [and] or any current, temporary address where
16 the covered offender resides or, if an address is not
17 available, a description of any place or area in which
18 the covered offender resides for at least thirty
19 nonconsecutive days within a sixty-day period, and,
20 for each address or place where the covered offender
21 resides, how long the covered offender has resided
22 there;



- 1 [~~+3~~] (5) The actual address or description of the place or
2 area where the covered offender is staying for more
3 than [~~ten~~] seven days, if other than the stated
4 residence[+], and the actual length of time of the
5 stay;
- 6 [~~+4~~] (6) The future actual address, if known, where the
7 covered offender is planning to reside, if other than
8 the stated residence;
- 9 [~~+5~~] (7) The street name and zip code of the covered
10 offender's current locations of employment[+],
11 including information for any place where the covered
12 offender works as a volunteer or otherwise works
13 without remuneration;
- 14 (8) For covered offenders who may not have a fixed place
15 of employment, a description of the places where such
16 a covered offender works;
- 17 (9) Professional licenses held by the covered offender;
- 18 [~~+6~~] (10) Names and actual addresses of current and known
19 future educational institutions with which the covered
20 offender is affiliated as a faculty member, an
21 employee, or a student, and the starting and ending
22 dates of any such affiliation;



- 1 [~~7~~] (11) The year, make, model, color, and license number
2 of all vehicles, including automobiles, watercrafts,
3 and aircrafts, currently owned or operated by the
4 covered offender, excluding vehicles operated
5 exclusively for purposes of work;
- 6 [~~8~~] (12) A statement listing all covered offenses for
7 which the covered offender has been convicted or found
8 unfit to proceed or acquitted pursuant to chapter 704;
9 [~~and~~]
- 10 (13) Judgment of conviction, judgment of acquittal, or
11 judicial determination of unfitness to proceed
12 documenting the criminal offense or offenses for which
13 the covered offender is registered;
- 14 (14) The text, or an electronic link to the text, of the
15 provision of law defining the criminal offense or
16 offenses for which the covered offender is registered;
17 and
- 18 [~~9~~] (15) A recent photograph of the covered offender.
19 The identity of any victim of a sexual offense shall not be
20 disclosed and any documentation containing such information
21 shall be redacted to prevent disclosure.



1 (c) To facilitate community notification, after a covered
2 offender registers or updates a registration, the attorney
3 general may provide public information in the registry about
4 that offender to any organization, company, or individual who
5 requests such notification pursuant to procedures established by
6 the attorney general through rules adopted pursuant to chapter
7 91.

8 (d) A covered offender may seek correction of erroneous
9 public information by petitioning the attorney general to make
10 the correction. If the covered offender is not satisfied with
11 the decision of the attorney general on the request for
12 correction, the covered offender may appeal the decision
13 pursuant to chapter 91.

14 [~~e~~] (e) Public access to a covered offender's public
15 information shall be permitted with regard to each covered
16 offender beginning the next working day following the filing of
17 a judgment of conviction, a finding of unfitness to proceed or
18 an acquittal due to mental disease, disorder, or defect, for a
19 covered offense, or as soon thereafter as is practical. When a
20 notice of appeal has been filed, the public information shall
21 note that the covered offender has filed a notice of appeal.
22 The public information shall be removed upon the reversal of the



1 covered offender's conviction or the granting of a pardon to the
2 covered offender. [~~Public access shall continue until the~~
3 ~~expiration of at least the following periods:~~

4 ~~(1) Forty years after sentencing or release, whichever is~~
5 ~~later, of a sexually violent predator or a repeat~~
6 ~~covered offender with at least two separate~~
7 ~~convictions for a crime for which this chapter~~
8 ~~requires registration, one of which is a felony;~~

9 ~~(2) Thirty years after sentencing or release, whichever is~~
10 ~~later, of any covered offender who has been convicted~~
11 ~~of an aggravated sexual offense;~~

12 ~~(3) Twenty five years after sentencing or release,~~
13 ~~whichever is later, of any covered offender who is not~~
14 ~~subject to paragraph (1) or (2), and whose most~~
15 ~~serious covered offense conviction, except for a~~
16 ~~conviction under section 707-730(1)(c), is a class A~~
17 ~~felony or its non-Hawaii equivalent;~~

18 ~~(4) Fifteen years after a covered offender's date of~~
19 ~~sentencing or release, whichever is later, for those~~
20 ~~covered offenders who are not subject to paragraphs~~
21 ~~(1) through (3) and whose most serious covered offense~~
22 ~~conviction is a class B felony, or a conviction under~~



1 ~~section 707-730(1)(c), or its non-Hawaii equivalent,~~

2 ~~or~~

3 ~~(5) Ten years after a covered offender's date of~~
4 ~~sentencing or release, whichever is later, for those~~
5 ~~covered offenders who are not subject to paragraphs~~
6 ~~(1) through (4) and:~~

7 ~~(A) Whose most serious covered offense conviction is~~

8 ~~a class C felony or its non-Hawaii equivalent; or~~

9 ~~(B) Have been convicted of a second or subsequent~~

10 ~~misdemeanor covered offense when all of the~~

11 ~~previous covered offenses are also misdemeanors.~~

12 ~~(d)] (f) Public access authorized by this section [shall~~
13 ~~be accomplished by the following methods:~~

14 ~~(1) Public access to the public information for each~~
15 ~~covered offender subject to subsection (c), paragraphs~~

16 ~~(1) through (4)] shall be provided by both public~~

17 ~~[internet] Internet access and on-site public access~~

18 ~~[or,~~

19 ~~(2) Public access to the public information for each~~

20 ~~covered offender subject to subsection (c), paragraph~~

21 ~~(5) shall be provided by on-site public access];~~



1 provided that on-site public access shall be provided for each
2 covered offender at the Hawaii criminal justice data center and
3 at one or more designated police stations in each county, to be
4 designated by the attorney general, between the hours of 8:00
5 a.m. and 4:30 p.m. on weekdays, excluding holidays.

6 ~~[(e)—After]~~ (g) Public access to the public information
7 for each covered offender shall be permitted while the covered
8 offender is subject to sex-offender registration, except that
9 after forty years have elapsed after release or sentencing,
10 whichever is later, ~~[for covered offenders subject to subsection~~
11 ~~(e), paragraph (1); thirty years have elapsed after release or~~
12 ~~sentencing, whichever is later, for covered offenders subject to~~
13 ~~subsection (e), paragraph (2); twenty five years have elapsed~~
14 ~~after release or sentencing, whichever is later, for covered~~
15 ~~offenders subject to subsection (e), paragraph (3); fifteen~~
16 ~~years have elapsed after release or sentencing, whichever is~~
17 ~~later for covered offenders subject to subsection (e), paragraph~~
18 ~~(4); and ten years have elapsed after release or sentencing,~~
19 ~~whichever is later, for covered offenders subject to subsection~~
20 ~~(e), paragraph (5),]~~ a covered offender may petition the court
21 in a civil proceeding to terminate public access. In the civil
22 proceeding to terminate public access, the State shall be



1 represented by the attorney general; provided that the attorney
2 general, with the prosecuting agency's consent, may designate
3 the prosecuting agency that prosecuted the covered offender for
4 the most recent covered offense within the ~~[State]~~ state to
5 represent the State. For covered offenders who have never been
6 convicted of a covered offense within the State of Hawaii, the
7 attorney general shall represent the State; provided that the
8 attorney general, with the prosecuting agency's consent, may
9 designate the prosecuting agency for the county in which the
10 covered offender resides to represent the State. The court may
11 order this termination upon proof by ~~[a preponderance of the]~~
12 clear and convincing evidence that ~~[the covered offender]~~:

- 13 (1) ~~[Has]~~ The covered offender has had no new convictions
14 for covered offenses;
- 15 (2) ~~[Is]~~ The covered offender is very unlikely to commit a
16 covered offense ever again; and
- 17 (3) Public access to the covered offender's public
18 information will not assist in protecting the safety
19 of the public or any member thereof;
- 20 provided that a denial by the court for relief pursuant to a
21 petition under this section shall preclude the filing of another
22 petition for five years from the date of the last denial.



1 ~~[(f)]~~ (h) If a covered offender has been convicted of only
2 one covered offense and that covered offense is a misdemeanor,
3 the covered offender shall not be subject to the public access
4 requirements set forth in this section.

5 ~~[(g)]~~ (i) The following message shall be posted at both
6 the site of ~~[internet]~~ Internet access and on-site public access
7 locations:

8 "Information regarding covered offenders is permitted
9 pursuant to chapter 846E. Public access to this
10 information is based solely on the fact of each offender's
11 criminal conviction and is not based on an estimate of the
12 offender's level of dangerousness. By allowing public
13 access to this information, the State makes no
14 representation as to whether the covered offenders listed
15 are dangerous. Any person who uses the information in this
16 registry to injure, harass, or commit a criminal act
17 against any person included in the registry may be subject
18 to criminal prosecution, civil liability, or both."

19 ~~[(h)]~~ (j) The public access provisions of this section
20 shall apply to all covered offenders without regard to the date
21 of conviction.

22 ~~[(i)]~~ (k) "Conviction" as used in this section means:



- 1 (1) A judgment on the verdict, or a finding of guilt after
2 a plea of [†]guilty[†] or nolo contendere, excluding
3 the adjudication of a minor;
- 4 (2) A finding of unfitness to proceed resulting in the
5 release of the covered offender into the community,
6 excluding such a finding as to a minor; or
- 7 (3) An acquittal due to a physical or mental disease,
8 disorder, or defect pursuant to chapter 704 resulting
9 in the release of the covered offender into the
10 community, excluding such acquittal as to a minor."

11 SECTION 8. Section 846E-4, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) The chief of police shall transmit any covered
14 offender registration information required by this chapter to
15 the attorney general, by entering the information into a
16 statewide record system, if the information has not previously
17 been entered into the system, and also shall provide the
18 attorney general with a photograph and fingerprints of the
19 covered offender, taken at the time the covered offender
20 registers with the chief of police. The covered offender shall
21 report in person every five years until June 30, 2009, and
22 beginning on July 1, 2009, every year, within the thirty-day



1 period following the offender's date of birth, to the chief of
2 police where the covered offender's residence is located [~~for~~
3 ~~purposes of having a new photograph taken.~~], or to such other
4 department or agency that may be designated by the attorney
5 general in rules adopted pursuant to chapter 91 for purposes of
6 the administration of this subsection, and shall review the
7 existing information in the registry that is within the
8 offender's knowledge, correct any information that has changed
9 or is inaccurate, provide any new information that may be
10 required, and allow the police and such other department or
11 agency designated by the attorney general to take a current
12 photograph of the offender."

13 SECTION 9. Section 846E-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§846E-9 Failure to comply with covered offender**
16 **registration requirements.** (a) A person commits the offense of
17 failure to comply with covered offender registration
18 requirements if the person is required to register under this
19 chapter and the person intentionally, knowingly, or recklessly:

20 (1) Fails to register with the attorney general by
21 providing to the attorney general or the Hawaii



1 criminal justice data center the person's registration
2 information;

3 (2) Fails to report in person every five years until June
4 30, 2009, and beginning on July 1, 2009, once every
5 year, during the thirty-day period following the
6 offender's date of birth, to the chief of police where
7 the covered offender's residence is located, [~~for~~
8 purposes of having a new photograph taken within five
9 years after the previous photograph was taken.] or to
10 such other department or agency designated by the
11 attorney general;

12 (3) While reporting to the chief of police or such other
13 department or agency designated by the attorney
14 general, fails to correct information in the registry
15 within the offender's knowledge that has changed or is
16 inaccurate regarding information required by section
17 846E-2(d) (1) through (12);

18 (4) While reporting to the chief of police or such other
19 department or agency designated by the attorney
20 general, fails to provide new information that may be
21 required by section 846E-2(d) (1) through section (12);



- 1 (5) While reporting to the chief of police or such other
2 department or agency designated by the attorney
3 general, does not allow the police or other designated
4 department or agency to take a current photograph of
5 the person;
- 6 [~~(3)~~] (6) Fails to register in person with the chief of
7 police having jurisdiction of the area where the
8 covered offender resides or is present within three
9 working days whenever the provisions of section
10 846E-2(e) require the person to do so;
- 11 [~~(4)~~] (7) Fails to notify the attorney general or the
12 Hawaii criminal justice data center of a change of any
13 of the covered offender's registration information in
14 writing within three working days of the change;
- 15 [~~(5)~~] (8) Provides false registration information to the
16 attorney general, the Hawaii criminal justice data
17 center, or a chief of police;
- 18 [~~(6)~~] (9) Signs a statement verifying that all of the
19 registration information is accurate and current when
20 any of the registration information is not
21 substantially accurate and current;



1 ~~[(7)]~~ (10) Having failed to establish a new residence
2 within the ten days while absent from the person's
3 registered residence for ten or more days:
4 (A) Fails to notify the attorney general in writing
5 within three working days that the person no
6 longer resides at the person's registered
7 residence; or
8 ~~(B)~~ Fails to report to a police station in the
9 ~~[State]~~ state by the last day of every month;
10 or
11 ~~[(8)]~~ (11) Fails to mail or deliver the periodic
12 verification of registration information form to the
13 attorney general within ten days of receipt, as
14 required by section 846E-5; provided that it shall be
15 an affirmative defense that the periodic verification
16 form mailed to the covered offender was delivered when
17 the covered offender was absent from the registered
18 address and the covered offender had previously
19 notified the Hawaii criminal justice data center that
20 the covered offender would be absent during the period
21 that the periodic verification form was delivered.



1 (b) ~~[Any person required to register under this chapter~~
2 ~~who intentionally or knowingly violates subsection (a) shall be~~
3 ~~guilty of]~~ Failure to comply with covered offender registration
4 requirements is a class C felony.

5 ~~[(c) Any person required to register under this chapter~~
6 ~~who recklessly violates subsection (a) shall be guilty of a~~
7 ~~misdemeanor.~~

8 ~~(d) For any second or subsequent offense, any person~~
9 ~~required to register under this chapter who intentionally,~~
10 ~~knowingly, or recklessly violates subsection (a) shall be guilty~~
11 ~~of a class C felony.] "~~

12 SECTION 10. Section 846E-10, Hawaii Revised Statutes, is
13 amended to read as follows:

14 " ~~[†]~~ §846E-10 ~~[‡]~~ **Termination of registration requirements.**

15 (a) Tier 3 offenses. A covered offender whose ~~[most serious~~
16 ~~covered offense is a class A felony or its non-Hawaii~~
17 ~~equivalent, who has substantially complied with the registration~~
18 ~~requirements of this chapter for the previous twenty five years,~~
19 ~~who is not a sexually violent predator, who is not an aggravated~~
20 ~~sex offender, and who is not a repeat covered offender, may~~
21 ~~petition the court, in a civil proceeding, for termination of~~
22 ~~registration requirements on the ground that registration is no~~



1 ~~longer necessary for the protection of the public.] covered~~
2 offense is any of the following offenses shall register for life
3 and, except as provided in subsection (e), may not petition the
4 court, in a civil proceeding, for termination of registration
5 requirements:

6 (1) Any offense set forth in section 707-730(1)(a), (b),
7 (d), or (e), 707-731(1)(a) or (b), 707-732(1)(a), (b),
8 or (f), or 707-733.6;

9 (2) An offense set forth in section 707-720; provided that
10 the offense involves kidnapping of a minor by someone
11 other than a parent;

12 (3) An offense that is an attempt, criminal solicitation,
13 or criminal conspiracy to commit any of the offenses
14 in paragraph (1) or (2);

15 (4) Any criminal offense that is comparable to one of the
16 offenses in paragraph (1), (2), or (3); or

17 (5) Any federal, military, or out-of-state offense that is
18 comparable to one of the offenses in paragraph (1),
19 (2), or (3).

20 (b) A repeat covered offender shall register for life and,
21 except as provided in subsection (e), may not petition the



1 court, in a civil proceeding, for termination of registration
2 requirements.

3 ~~[(b)]~~ (c) Tier 2 offenses. A covered offender ~~[whose most~~
4 ~~serious covered offense is a class B felony or its non-Hawaii~~
5 ~~equivalent,]~~ who has maintained a clean record for the previous
6 twenty-five years, excluding any time the offender was in
7 custody or civilly committed, and who has substantially complied
8 with the registration requirements of this chapter for the
9 previous [fifteen] twenty-five years, or for the portion of that
10 twenty-five years that this chapter has been applicable, and who
11 is not [a sexually violent predator, who is not an aggravated
12 sex offender, and who is not] a repeat covered offender[-] may
13 petition the court, in a civil proceeding, for termination of
14 registration requirements ~~[on the ground that registration is no~~
15 ~~longer necessary for the protection of the public.];~~ provided
16 that the covered offender's most serious covered offense is one
17 of the following:

18 (1) Any offense set forth in section 707-730(1)(c), 707-
19 731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-
20 1202(1)(b), or 712-1203(1)(b);

21 (2) An offense set forth in section 707-720; provided that
22 the charging document for the offense for which there



1 has been a conviction alleged intent to subject the
2 victim to a sexual offense;

3 (3) An offense set forth in section 707-756 that includes
4 an intent to promote or facilitate the commission of
5 another felony covered offense as defined in section
6 846E-1;

7 (4) An offense that is an attempt, criminal solicitation,
8 or criminal conspiracy to commit any of the offenses
9 in paragraph (1), (2), or (3);

10 (5) Any criminal offense that is comparable to one of the
11 offenses in paragraph (1), (2), (3), or (4); or

12 (6) Any federal, military, or out-of-state offense that is
13 comparable to one of the offenses in paragraph (1),
14 (2), (3), or (4).

15 ~~[-e-]~~ (d) Tier 1 offenses. A covered offender ~~[whose most~~
16 ~~serious covered offense is a class C felony or its non-Hawaii~~
17 ~~equivalent, or a misdemeanor or its non-Hawaii equivalent,]~~ who
18 has maintained a clean record for the previous fifteen years,
19 excluding any time the offender was in custody or civilly
20 committed, and who has substantially complied with the
21 registration requirements of this chapter for the previous ~~ten~~
22 fifteen years, or for the portion of that fifteen years that



1 this chapter has been applicable, and who is not [a sexually
2 violent predator, who is not an aggravated sex offender, and who
3 is not] a repeat covered offender[7] may petition the court, in
4 a civil proceeding, for termination of registration requirements
5 [on the ground that registration is no longer necessary for the
6 protection of the public.]; provided that the covered offender's
7 most serious covered offense is one of the following:

- 8 (1) Any offense set forth in section 707-732(1)(d) or (e),
9 707-733(1)(a), 707-752, 707-A, or 707-B.
- 10 (2) An offense set forth in section 707-721 or 707-722;
11 provided that the offense involves unlawful
12 imprisonment of a minor by someone other than a
13 parent;
- 14 (3) An offense set forth in section 707-757 that includes
15 an intent to promote or facilitate the commission of
16 another covered offense as defined in section 846E-1;
- 17 (4) An offense that is an attempt, criminal solicitation,
18 or criminal conspiracy to commit any of the offenses
19 in paragraph (1), (2), or (3);
- 20 (5) Any criminal offense that is comparable to one of the
21 offenses in paragraph (1), (2), (3), or (4); or



1 (6) Any federal, military, or out-of-state offense that is
2 comparable to one of the offenses in paragraph (1),
3 (2), (3), or (4).

4 (e) Notwithstanding any other provisions in this section,
5 any covered offender, forty years after the covered offender's
6 date of release or sentencing, whichever is later, for the
7 covered offender's most recent covered offense, may petition the
8 court, in a civil proceeding, for termination of registration
9 requirements.

10 (f) In the civil proceeding for termination of
11 registration requirements, the State shall be represented by the
12 attorney general; provided that the attorney general, with the
13 prosecuting agency's consent, may designate the prosecuting
14 agency that prosecuted the covered offender for the most recent
15 covered offense within the state to represent the State. For
16 covered offenders who have never been convicted of a covered
17 offense within the State of Hawaii, the attorney general shall
18 represent the State; provided that the attorney general, with
19 the prosecuting agency's consent, may designate the prosecuting
20 agency for the county in which the covered offender resides to
21 represent the State. The court may order this termination upon
22 proof by clear and convincing evidence that:



- 1 (1) The covered offender has met the statutory
2 requirements of eligibility to petition for
3 termination;
- 4 (2) The covered offender has substantially complied with
5 registration requirements;
- 6 (3) The covered offender is very unlikely to commit a
7 covered offense ever again; and
- 8 (4) Registration by the covered offender will not assist
9 in protecting the safety of the public or any member
10 thereof.

11 ~~[(d)]~~ (g) A denial by the court for relief pursuant to a
12 petition under this section shall preclude the filing of another
13 petition for five years from the date of the last denial."

14 SECTION 11. Sections 846E-11 and 846E-13, Hawaii Revised
15 Statutes, are repealed.

16 ~~["§846E-11] Presumptions; civil proceeding. (a) For any~~
17 ~~civil proceeding required or permitted by this chapter, the~~
18 ~~following presumptions shall apply:~~

19 ~~(1) For a covered offender who is a sexually violent~~
20 ~~predator, an aggravated sex offender, or a repeat~~
21 ~~covered offender, there shall be a presumption that~~



1 ~~the covered offender's registration requirement and~~
2 ~~public access shall continue;~~

3 ~~(2) For a covered offender convicted of a class C felony~~
4 ~~or a misdemeanor who is not a sexually violent~~
5 ~~predator, an aggravated sex offender, or a repeat~~
6 ~~covered offender, there shall be a presumption that~~
7 ~~the covered offender's registration requirement and~~
8 ~~public access shall end; and~~

9 ~~(3) For all other covered offenders, there shall be no~~
10 ~~presumption concerning the covered offender's~~
11 ~~registration requirement and public access.~~

12 ~~(b) The presumptions created in this section shall not~~
13 ~~apply to criminal proceedings initiated pursuant to section~~
14 ~~846E-9.~~

15 ~~[\$846E-13] Determination of whether a sex offender is a~~
16 ~~sexually violent predator. Whenever a petition for termination~~
17 ~~of registration requirements is filed pursuant to section~~
18 ~~846E-10, or upon petition by the State at any time after a~~
19 ~~determination of guilt, a court, in a civil proceeding, shall~~
20 ~~make a determination as to whether a sex offender is a sexually~~
21 ~~violent predator. The determination of whether a person is a~~
22 ~~sexually violent predator for purposes of this section shall be~~



1 ~~made by a court after considering the recommendation of a board,~~
2 ~~appointed by the chief justice of the supreme court, composed of~~
3 ~~experts in the behavior and treatment of sex offenders, victims,~~
4 ~~rights advocates, and representatives of law enforcement~~
5 ~~agencies. The State and the sex offender may, at their~~
6 ~~discretion and expense, select additional experts in the field~~
7 ~~of psychiatry or psychology to conduct additional evaluations of~~
8 ~~the covered offender. The court shall make a determination as~~
9 ~~to whether or not the sex offender is a sexually violent~~
10 ~~predator for purposes of this chapter."]~~

11 SECTION 12. Sections 8, 9, 10, 11, and 13 shall apply to
12 any acts committed prior to, on, or after the effective date of
13 this Act.

14 SECTION 13. Sections 3, 4, 5, and 6 do not affect rights
15 and duties that matured, penalties that were incurred, and
16 proceedings that were begun, before the effective date of this
17 Act.

18 SECTION 14. In codifying the new sections added to chapter
19 707, Hawaii Revised Statutes, by section 2 of this Act, the
20 revisor of statutes shall substitute appropriate section numbers
21 for the letters used in the designations of, and references to,
22 those new sections in this Act.



1 SECTION 15. If any provision of this Act, or the
2 application thereof to any person or circumstance is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act, which can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 16. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 17. This Act shall take effect on January 1, 2112.



Report Title:

PUBLIC SAFETY; CRIMES; SEX OFFENDERS; ELECTRONIC ENTICEMENT.

Description:

Revamps Hawaii's sex offender registry laws to provide more up-to-date and more useful information about registered sex offenders to the public; strengthens some criminal laws, including those relating to electronic enticement of a child; and makes other criminal law changes. (HB3040 HD1)

