
A BILL FOR AN ACT

RELATING TO REGISTRATION OF COVERED OFFENDERS.

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

1 SECTION 1. Act 80, Session Laws of Hawaii 2008, amended
2 chapter 846E, Hawaii Revised Statutes, Hawaii's covered offender
3 registration law, to take major steps toward compliance with
4 title I of the federal Adam Walsh Child Protection and Safety
5 Act of 2006, also known as the Sex Offender Registration and
6 Notification Act, and enable the Hawaii covered offender
7 registration program to effectively participate with the
8 nationwide network of sex offender registries.

9 When declaring the purpose of the Sex Offender Registration
10 and Notification Act, Congress stated: "In order to protect the
11 public from sex offenders and offenders against children, and in
12 response to the vicious attacks by violent predators . . .
13 Congress in this Act establishes a comprehensive national system
14 for the registration of those offenders." The Sex Offender
15 Registration and Notification Act was in response to a number of
16 high profile violent crimes committed by individuals who had
17 previously been convicted of sex crimes but under the old
18 standards were not required to register as sex offenders. Under



1 the Sex Offender Registration and Notification Act, the
2 predecessor sex offender program was repealed. The Sex Offender
3 Registration and Notification Act established new baseline sex
4 offender registry standards for state registries.

5 The sex offender registration and notification programs
6 serve a number of purposes. The programs provide systems for
7 tracking sex offenders released into our communities. In the
8 event of a violent sex crime, the programs provide law
9 enforcement with information on sex offenders in the area the
10 crime was committed. The information may help law enforcement
11 identify the perpetrator, and may help law enforcement to
12 quickly locate and apprehend the perpetrator. The programs may
13 also deter released offenders from committing other crimes
14 because they require offenders to maintain contact with
15 authorities and provide detailed information regarding their
16 whereabouts. The public notification aspects of the programs
17 allow members of the public access to information on sex
18 offenders in their area, thereby enabling them to take
19 reasonable measures to protect themselves.

20 The purpose of this Act is to clarify provisions in chapter
21 846E, Hawaii Revised Statutes, the State's covered offender
22 registration law, address important issues that have come up in



1 the implementation of the covered offender registration law, and
2 continue to make efforts toward Sex Offender Registration and
3 Notification Act compliance.

4 SECTION 2. Section 806-83, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Criminal charges may be instituted by written
7 information for a felony when the charge is a class C felony
8 under section 19-3.5 (voter fraud); section 128D-10 (knowing
9 releases); section 132D-14(a)(1), (2)(A), and (3) (relating to
10 penalties for failure to comply with requirements of sections
11 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep
12 unloaded firearms other than pistols and revolvers); section
13 134-7(a) and (b) (ownership or possession prohibited); section
14 134-8 (ownership, etc., of automatic firearms, silencers, etc.,
15 prohibited; penalties); section 134-9 (licenses to carry);
16 section 134-17(a) (relating to false information or evidence
17 concerning psychiatric or criminal history); section 134-51
18 (deadly weapons); section 134-52 (switchblade knives); section
19 134-53 (butterfly knives); section 188-23 (possession or use of
20 explosives, electrofishing devices, and poisonous substances in
21 state waters prohibited); section 231-34 (attempt to evade or
22 defeat tax); section 231-36 (false and fraudulent statements);



1 section 245-37 (sale or purchase of packages of cigarettes
2 without stamps); section 245-38 (vending unstamped cigarettes);
3 section 245-51 (export and foreign cigarettes prohibited);
4 section 245-52 (alteration of packaging prohibited); section
5 291C-12.5 (accidents involving substantial bodily injury);
6 section 291E-61.5 (habitually operating a vehicle under the
7 influence of an intoxicant); section 329-41 (prohibited acts B--
8 penalties); section 329-42 (prohibited acts C--penalties);
9 section 329-43.5 (prohibited acts related to drug
10 paraphernalia); section 329C-2 (manufacture, distribution, or
11 possession with intent to distribute an imitation controlled
12 substance to a person under eighteen years of age); section 346-
13 34(d)(2) and (e) (relating to fraud involving food stamps or
14 coupons); section 346-43.5 (medical assistance frauds;
15 penalties); section 383-141 (falsely obtaining benefits, etc.);
16 section 431:2-403(b)(2) (insurance fraud); section 482D-7
17 (violation of fineness standards and stamping requirements);
18 section 485A-301 (securities registration requirement); section
19 485A-401 (broker-dealer registration requirement and
20 exemptions); section 485A-402 (agent registration requirement
21 and exemptions); section 485A-403 (investment advisor
22 registration requirement and exemptions); section 485A-404



1 (investment advisor representative registration requirement and
2 exemptions); section 485A-405 (federal covered investment
3 adviser notice filing requirement); section 485A-501 (general
4 fraud); section 485A-502 (prohibited conduct in providing
5 investment advice); section 707-703 (negligent homicide in the
6 second degree); section 707-705 (negligent injury in the first
7 degree); section 707-711 (assault in the second degree); section
8 707-713 (reckless endangering in the first degree); section 707-
9 721 (unlawful imprisonment in the first degree); section 707-726
10 (custodial interference in the first degree); section 707-757
11 (electronic enticement of a child in the second degree); section
12 707-766 (extortion in the second degree); section 708-811
13 (burglary in the second degree); section 708-812.6 (unauthorized
14 entry in a dwelling); section 708-821 (criminal property damage
15 in the second degree); section 708-831 (theft in the second
16 degree); section 708-833.5 (shoplifting); section 708-835.5
17 (theft of livestock); section 708-836 (unauthorized control of
18 propelled vehicle); section 708-836.5 (unauthorized entry into
19 motor vehicle in the first degree); section 708-839.5 (theft of
20 utility services); section 708-839.55 (unauthorized possession
21 of confidential personal information); section 708-839.8
22 (identity theft in the third degree); section 708-852 (forgery



1 in the second degree); section 708-854 (criminal possession of a
2 forgery device); section 708-858 (suppressing a testamentary or
3 recordable instrument); section 708-875 (trademark
4 counterfeiting); section 708-891.5 (computer fraud in the second
5 degree); section 708-892.5 (computer damage in the second
6 degree); section 708-895.6 (unauthorized computer access in the
7 second degree); section 708-8100 (fraudulent use of a credit
8 card); section 708-8102 (theft, forgery, etc., of credit cards);
9 section 708-8103 (credit card fraud by a provider of goods or
10 services); section 708-8104 (possession of unauthorized credit
11 card machinery or incomplete cards); section 708-8200 (cable
12 television service fraud in the first degree); section 708-8202
13 (telecommunication service fraud in the first degree); section
14 709-903.5 (endangering the welfare of a minor in the first
15 degree); section 709-906 (abuse of family or household members);
16 section 710-1016.3 (obtaining a government-issued identification
17 document under false pretenses in the first degree); section
18 710-1016.6 (impersonating a law enforcement officer in the first
19 degree); section 710-1017.5 (sale or manufacture of deceptive
20 identification document); section 710-1018 (securing the
21 proceeds of an offense); section 710-1021 (escape in the second
22 degree); section 710-1023 (promoting prison contraband in the



1 second degree); section 710-1024 (bail jumping in the first
2 degree); section 710-1029 (hindering prosecution in the first
3 degree); section 710-1060 (perjury); section 710-1072.5
4 (obstruction of justice); section 711-1103 (riot); section 711-
5 1109.3 (cruelty to animals; fighting dogs); section 711-1110.9
6 (violation of privacy in the first degree); section 711-1112
7 (interference with the operator of a public transit vehicle);
8 section 712-1221 (promoting gambling in the first degree);
9 section 712-1222.5 (promoting gambling aboard ships); section
10 712-1224 (possession of gambling records in the first degree);
11 section 712-1243 (promoting a dangerous drug in the third
12 degree); section 712-1246 (promoting a harmful drug in the third
13 degree); section 712-1247 (promoting a detrimental drug in the
14 first degree); section 712-1249.6 (promoting a controlled
15 substance in, on, or near schools, school vehicles, or public
16 parks); section 803-42 (interception, access, and disclosure of
17 wire, oral, or electronic communications, use of pen register,
18 trap and trace device, and mobile tracking device prohibited);
19 or section ~~[846E-9(b)]~~ 846E-9(c) (failure to comply with covered
20 offender registration requirements)."



1 SECTION 3. Section 846E-1, Hawaii Revised Statutes, is
2 amended by adding seven new definitions to be appropriately
3 inserted and to read as follows:

4 "Attorney general" means the attorney general of the State
5 of Hawaii, the department of the attorney general, or an
6 authorized representative of the attorney general.

7 "Chief of police" means the county chief of police, the
8 county police department, or an authorized representative of the
9 chief of police.

10 "Foreign conviction" means a conviction under the laws of:

11 (1) Canada, United Kingdom, Australia, or New Zealand; or

12 (2) Any other foreign country, if the United States

13 Department of State, in its Country Reports on Human

14 Rights Practices, has concluded that an independent

15 judiciary vigorously enforced the right to a fair

16 trial in that country during the year in which the

17 conviction occurred.

18 "Out-of-state conviction" means a conviction in any other

19 state of the United States, the District of Columbia, or the

20 five principal United States territories, including the

21 Commonwealth of Puerto Rico, Guam, American Samoa, the Northern

22 Mariana Islands, and the United States Virgin Islands.



1 "Permanent residence" means a building, permanent structure
2 or unit therein, or watercraft where the covered offender
3 resides and intends to reside indefinitely, or at least for the
4 next one hundred eighty days, and which the offender owns,
5 rents, or occupies with the consent of the owner.

6 "Temporary residence" means a building, permanent structure
7 or unit therein, watercraft, emergency shelter, or transitional
8 housing facility where the covered offender resides, but does
9 not intend to reside for more than one hundred eighty days.

10 "Tribal conviction" means a conviction by a tribal court of
11 an Indian tribe recognized by the government of the United
12 States."

13 SECTION 4. Section 846E-1, Hawaii Revised Statutes, is
14 amended by amending the definitions of "conviction", "crime
15 against minors", "registration information", and "sexual
16 offense" to read as follows:

17 "Conviction" means a judgment on the verdict, or a finding
18 of guilt after a plea of guilty or nolo contendere, excluding
19 the adjudication of a minor[-], and occurs on the date judgment
20 is entered.



1 "Crime against minors" excludes "sexual offenses" as
2 defined in this section and means a criminal offense that
3 consists of:

4 (1) Kidnapping of a minor, by someone other than a parent;

5 (2) Unlawful imprisonment in the first or second degree
6 that involves the unlawful imprisonment of a minor by
7 someone other than a parent;

8 (3) An act, as described in chapter 705, that is an
9 attempt, criminal solicitation, or criminal conspiracy
10 to commit one of the offenses designated in paragraph
11 (1) or (2); [~~or~~]

12 (4) A criminal offense that is comparable to or which
13 exceeds one of the offenses designated in paragraphs
14 (1) through (3) [~~or any~~]; or

15 (5) Any federal, military, [~~or~~] out-of-state, tribal, or
16 foreign conviction for any offense that, under the
17 laws of this State, would be a crime against minors as
18 designated in paragraphs (1) through [~~(3)-~~] (4).

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

21 "Sexual offense" means an offense that is:



- (1) Set forth in section [~~707-730(1)(a), 707-730(1)(b),~~
~~707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a),~~
~~707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-~~
~~732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-~~
~~732(1)(e), 707-732(1)(f),~~] 707-730(1), 707-731(1),
707-732(1), 707-733(1)(a), 707-733.6, [712-1202(1)(a),
712-1202(1)(b),] 712-1202(1), or 712-1203(1), but
excludes conduct that is criminal only because of the
age of the victim, as provided in section 707-
730(1)(b), or section 707-732(1)(b) if the perpetrator
is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging
document for the offense for which there has been a
conviction alleged intent to subject the victim to a
sexual offense;
- (3) An act that consists of:
- (A) Criminal sexual conduct toward a minor, including
but not limited to an offense set forth in
section 707-759;
 - (B) Solicitation of a minor who is less than fourteen
years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;



(D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;

(E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or

(F) Solicitation of a minor to practice prostitution;

(4) A violation of privacy under section 711-1110.9;

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

~~[(5)]~~ (6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through ~~[(4) or any]~~ (5); or

(7) Any federal, military, ~~[or]~~ out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through ~~[(4); or]~~ (6).



1 ~~[(6) 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 paragraphs~~
4 ~~(1) through (5).]~~ "

5 SECTION 5. Section 846E-1, Hawaii Revised Statutes, is
6 amended by repealing the definitions of "mental abnormality,
7 "personality disorder," and "predatory".

8 ~~["Mental abnormality" means a condition involving a~~
9 ~~disposition to commit criminal sexual offenses with a frequency~~
10 ~~that makes the person a menace to others.~~

11 ~~"Personality disorder" shall have the same meaning as the~~
12 ~~term is used in the Diagnostic and Statistical Manual of Mental~~
13 ~~Health Disorders: DSM IV, American Psychiatric Association,~~
14 ~~Diagnostic and Statistical Manual of Mental Disorders (4th ed.~~
15 ~~1994).~~

16 ~~"Predatory" means an act directed at:~~

17 ~~(1) A stranger; or~~

18 ~~(2) A person with whom a relationship has been established~~
19 ~~or promoted for the primary purpose of~~
20 ~~victimization."]~~

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



1 "§846E-2 Registration requirements. (a) A covered
2 offender shall register with the attorney general and comply
3 with the provisions of this chapter for life or for a shorter
4 period of time as provided in this chapter. Registration under
5 this subsection is required whenever the covered offender,
6 whether or not a resident of this State, remains in this State
7 for more than ten days or for an aggregate period exceeding
8 thirty days in one calendar year. A covered offender shall be
9 eligible to petition the court in a civil proceeding for an
10 order that the covered offender's registration requirements
11 under this chapter be terminated, as provided in section 846E-
12 10.

13 ~~[(b) A person who establishes or maintains a residence in~~
14 ~~this State and who has not been designated as a covered offender~~
15 ~~by a court of this State but who has been designated as a~~
16 ~~covered offender, sex offender, offender against minors, repeat~~
17 ~~covered offender, sexually violent predator, or any other sexual~~
18 ~~offender designation in another state or jurisdiction and was,~~
19 ~~as a result of such designation, subjected to registration or~~
20 ~~community or public notification, or both, or would be if the~~
21 ~~person was a resident of that state or jurisdiction, without~~
22 ~~regard to whether the person otherwise meets the criteria for~~



~~1 registration as a covered offender, shall register in the manner~~
~~2 provided in this section and shall be subject to community and~~
~~3 public notification as provided in section 846E-3. A person who~~
~~4 meets the criteria of this subsection is subject to the~~
~~5 requirements and penalty provisions of section 846E-9 until the~~
~~6 person successfully petitions the attorney general for~~
~~7 termination of registration requirements by:~~

- ~~8 (1) Providing an order issued by the court that designated~~
~~9 the person as a covered offender, sex offender,~~
~~10 offender against minors, repeat covered offender,~~
~~11 sexually violent predator, or any other sexual~~
~~12 offender designation in the state or jurisdiction in~~
~~13 which the order was issued, which states that such~~
~~14 designation has been removed or demonstrates to the~~
~~15 attorney general that such designation, if not imposed~~
~~16 by a court, has been removed by operation of law or~~
~~17 court order in the state or jurisdiction in which the~~
~~18 designation was made, and such person does not meet~~
~~19 the criteria for registration as a covered offender~~
~~20 under the laws of this State; or~~
~~21 (2) Demonstrating that the out of state convictions upon~~
~~22 which the sexual offender designation was established~~



1 ~~are not covered offenses under section 846E-1, thereby~~
2 ~~showing that such person does not meet the criteria~~
3 ~~for registration as a covered offender under the laws~~
4 ~~of this State.~~

5 ~~If the covered offender is not satisfied with the decision of~~
6 ~~the attorney general on the request for termination of~~
7 ~~registration requirements, the covered offender may appeal the~~
8 ~~decision pursuant to chapter 91.~~

9 ~~(e)]~~ (b) Each provision of this chapter applicable to sex
10 offenders shall also be applicable to offenders against minors,
11 unless offenders against minors are specifically excluded.

12 Whenever a covered offender's public information is made
13 publicly accessible, separate registries shall be maintained
14 for:

- 15 (1) Sex offenders; and
16 (2) Offenders against minors.

17 ~~[(d)]~~ (c) Registration information for each covered
18 offender shall include a signed statement by the covered
19 offender containing:

- 20 (1) The name, all prior names, nicknames and pseudonyms,
21 and all aliases used by the covered offender or under
22 which the covered offender has been known and other



1 identifying information, including date of birth and
2 any alias date of birth, social security number and
3 any alias social security number, sex, race, height,
4 weight, and hair and eye color;

- 5 (2) The actual address and telephone number of the covered
6 offender's permanent residence or [~~any current,~~
7 ~~temporary address where the covered offender resides,~~]
8 the address of the covered offender's current
9 temporary residence, or if an address is not
10 available, a description of the place or area in which
11 the covered offender resides for at least thirty
12 nonconsecutive days within a sixty-day period, and for
13 each address or place where the covered offender
14 resides, how long the covered offender has resided
15 there;

- 16 (3) The actual address or description of the place or
17 area, the actual length of time of the stay, and
18 telephone number where the covered offender is staying
19 for a period of more than ten days, if other than the
20 stated residence;



- 1 (4) If known, the future address and telephone number of
2 the place where the covered offender is planning to
3 reside, if other than the stated residence;
- 4 (5) Any electronic mail address, any instant message name,
5 any internet designation or moniker, and any internet
6 address used for routing or self-identification;
- 7 (6) Any cell phone number and other designations used for
8 routing or self-identification in telephonic
9 communications;
- 10 (7) Names and, if known, actual business addresses of
11 current and known future employers, including
12 information for any place where the covered offender
13 works as a volunteer or otherwise works without
14 remuneration, and the starting and ending dates of any
15 such employment;
- 16 (8) For covered offenders who may not have a fixed place
17 of employment, a description of the places where such
18 a covered offender works, such as information about
19 normal travel routes or the general area or areas in
20 which the covered offender works;
- 21 (9) Professional licenses held by the covered offender;



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

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

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

19 (13) A statement listing all covered offenses for which the
20 covered offender has been convicted or found unfit to
21 proceed or acquitted pursuant to chapter 704;



(14) A statement indicating whether the covered offender has received or is currently receiving treatment ordered by a court of competent jurisdiction or by the Hawaii paroling authority;

(15) A statement indicating whether the covered offender is a United States citizen; and

(16) Any additional identifying information about the covered offender.

~~[(e)]~~ (d) The following information shall also be included in the registry for each covered offender:

(1) A current photograph of the covered offender;

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

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

(4) Judgment of conviction, judgment of acquittal, or judicial determination of unfitness to proceed documenting the criminal offense or offenses for which the covered offender is registered;



- 1 (5) The text, or an electronic link to the text, of the
2 provision of law defining the criminal offense or
3 offenses for which the covered offender is registered;
- 4 (6) The criminal history of the covered offender, or an
5 electronic link to the criminal history, including the
6 date of all arrests and convictions, the status of
7 parole, probation, or supervised release, registration
8 status, and the existence of any outstanding arrest
9 warrants for the covered offender;
- 10 (7) Confirmation that the covered offender has provided a
11 DNA buccal swab sample as required by chapter 844D;
- 12 (8) Digitized copies of a valid driver's license or
13 identification card issued to the covered offender, or
14 an electronic link to such records; and
- 15 (9) Digitized copies of passports and documents
16 establishing immigration status, or an electronic link
17 to such records.
- 18 [~~(f)~~] (e) Whenever a covered offender provides
19 registration information, during initial registration as a
20 covered offender or when providing notice of a change in
21 registration information, the covered offender also shall sign a



1 statement verifying that all of the registration information is
2 accurate and current.

3 ~~[(g)]~~ (f) In addition to the requirement under subsection
4 (a) to register with the attorney general and comply with the
5 provisions of this chapter until a court relieves the covered
6 offender of the registration requirements of this chapter, each
7 covered offender shall also register in person with the chief of
8 police where the covered offender resides or is present.
9 Registration under this subsection is for the purpose of
10 providing the covered offender's photograph, fingerprints, and
11 registration information. Registration under this subsection is
12 required whenever the covered offender, whether or not a
13 resident of this State, remains in this State for more than ten
14 days or for an aggregate period exceeding thirty days in one
15 calendar year. Covered offenders required to register in person
16 with the chief of police under this subsection shall register no
17 later than three working days after the earliest of:

- 18 (1) Arrival in this State;
- 19 (2) Release from incarceration;
- 20 (3) Release from commitment;
- 21 (4) Release on furlough;
- 22 (5) Conviction for a covered offense, unless incarcerated;



1 (6) Release on probation;

2 (7) Placement on parole; or

3 (8) Arrival in a county in which the covered offender
4 resides or expects to be present for a period
5 exceeding ten days.

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

20 ~~[(h)]~~ (g) The registration provisions of this section
21 shall apply to all covered offenders without regard to:

22 (1) The date of the covered offender's conviction;



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

6 SECTION 7. Section 846E-4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Each person, or that person's designee, in charge of
9 a jail, prison, hospital, school, or other institution to which
10 a covered offender has been committed pursuant to a conviction,
11 or an acquittal or finding of unfitness to proceed pursuant to
12 chapter 704, for a covered offense, and each judge, or that
13 judge's designee, who continues bail for or releases a covered
14 offender following ~~[a guilty verdict or a plea of guilty or nolo~~
15 ~~contendere,]~~ sentencing and the entry of a judgment of
16 conviction, who releases a covered offender on probation or who
17 discharges a covered offender upon payment of a fine, and each
18 agency having jurisdiction, shall, prior to the discharge,
19 parole, or release of the covered offender:

- 20 (1) Explain to the covered offender the duty to register
21 and the consequences of failing to register under this
22 chapter;



- 1 (2) Obtain from the covered offender all of the
2 registration information required by this chapter;
- 3 (3) Inform the covered offender that if at any time the
4 covered offender changes any of the covered offender's
5 registration information, the covered offender shall
6 notify the attorney general of the new registration
7 information in writing within three working days;
- 8 (4) Inform the covered offender that, if at any time the
9 covered offender changes residence to another state,
10 the covered offender shall register the new address
11 with the attorney general and also with a designated
12 law enforcement agency in the new state, if the new
13 state has a registration requirement, within the
14 period of time mandated by the new state's sex
15 offender registration laws;
- 16 (5) Obtain and verify fingerprints and a photograph of the
17 covered offender, if these have not already been
18 obtained or verified in connection with the offense
19 that triggers the registration;
- 20 (6) Require the covered offender to sign a statement
21 indicating that the duty to register has been
22 explained to the covered offender; and



(7) Give one copy of the signed statement and one copy of the registration information to the covered offender."

SECTION 8. Section 846E-5, Hawaii Revised Statutes, is amended to read as follows:

"§846E-5 Periodic verification of registration information. ~~[Unless the covered offender is incarcerated or has registered with a designated law enforcement agency after establishing residence in another state, on the first day of every ninety day period following the covered offender's initial registration date:]~~ (a) For the covered offender who has registered a permanent residence address to which the United States Postal Service will deliver mail or a permanent residence and a registered post office box, during the first week of the months of January, April, July, and October of every year,

~~[+1] The]~~ the attorney general shall mail a nonforwardable verification form to the last reported permanent residence address or post office box of the covered offender~~[+]~~. Upon receipt of the verification form:

~~[+2]~~ (1) The covered offender shall sign the verification form and state that the covered offender still resides at the address last reported to the attorney general



1 and that no other registration information has changed
2 or shall provide the new information; and

3 ~~[(3)]~~ (2) The covered offender shall mail the signed and
4 completed verification form to the attorney general
5 within ten days after receipt of the form~~[-and~~

6 ~~(4) If the covered offender fails to mail the verification~~
7 ~~form to the attorney general within ten days after~~
8 ~~receipt of the form, the covered offender shall be in~~
9 ~~violation of this chapter, unless the covered offender~~
10 ~~proves that the covered offender has not changed the~~
11 ~~residence address.~~

12 ~~This section shall become effective on July 1, 1998].~~

13 (b) For the covered offender who has registered:

14 (1) A temporary residence address;

15 (2) A description of a place or area in which the covered
16 offender resides for at least thirty nonconsecutive
17 days within a sixty-day period;

18 (3) No place of residence; or

19 (4) A permanent residence address, to which the United
20 States Postal Service will not deliver mail, and has
21 no registered post office box,



1 during the first week of the months of January, April, July, and
2 October of every year, the covered offender shall report to the
3 chief of police where the covered offender resides, or to such
4 other department or agency that may be designated by the
5 attorney general in rules adopted pursuant to chapter 91 for
6 purposes of administration of this section, and shall review the
7 existing information in the registry that is within the covered
8 offender's knowledge, correct any information that has changed
9 or is inaccurate, and provide any new information that may be
10 required.

11 (c) The periodic verification provisions of this section
12 shall not apply to covered offenders who are incarcerated or
13 have registered with a designated law enforcement agency after
14 establishing residence in another state."

15 SECTION 9. Section 846E-6, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A covered offender required to register under this
18 chapter, who changes any of the covered offender's registration
19 information after an initial registration with the attorney
20 general, shall notify the attorney general of the new
21 registration information in writing within three working days of
22 the change. For purposes of this section, a person shall be



1 deemed to have established a new residence during any period in
2 which the person is absent from the person's registered
3 residence for ten or more days. If, at any time, a covered
4 offender required to register under this chapter is absent from
5 the person's registered residence for ten or more days [~~and~~
6 ~~fails to establish a new residence within the ten days that the~~
7 ~~covered offender is absent from their registered residence~~], the
8 covered offender [~~7, in addition to notifying~~] shall notify the
9 attorney general in writing within three working days [~~that the~~
10 ~~covered offender no longer resides at the covered offender's~~
11 ~~registered residence, shall also report to any police station in~~
12 ~~the State by the last day of every month for verification of~~
13 ~~identity by photograph and fingerprint impression until the~~
14 ~~covered offender establishes a new residence and notifies the~~
15 ~~attorney general in writing of the actual address of the new~~
16 ~~residence. Each time the covered offender reports to a police~~
17 ~~station, the covered offender shall disclose every location~~
18 ~~where the covered offender has slept in the previous month.~~] of
19 the covered offender's current residence information. If the
20 covered offender leaves the State and establishes a new
21 residence [~~is~~] in another state that has a registration
22 requirement, the person shall register with the designated law



1 enforcement agency in the state to which the person moves,
2 within the period of time mandated by the new state's sex
3 offender registration laws."

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

6 "§846E-9 Failure to comply with covered offender
7 registration requirements. (a) A person commits the offense of
8 failure to comply with covered offender registration
9 requirements if the person is required to register under this
10 chapter and the person intentionally, knowingly, or recklessly:

11 (1) Fails to register with the attorney general by
12 providing to the attorney general or the Hawaii
13 criminal justice data center the person's registration
14 information;

15 (2) Fails to report in person every five years until
16 June 30, 2009, and beginning on July 1, 2009, once
17 every year, during the thirty-day period following the
18 offender's date of birth, to the chief of police where
19 the covered offender's residence is located, or to
20 such other department or agency designated by the
21 attorney general;



- 1 (3) While reporting to the chief of police or such other
2 department or agency designated by the attorney
3 general, fails to correct information in the registry
4 within the offender's knowledge that has changed or is
5 inaccurate regarding information required by section
6 ~~[846E-2(d)(1)]~~ 846E-2(c)(1) through (12);
- 7 (4) While reporting to the chief of police or such other
8 department or agency designated by the attorney
9 general, fails to provide new information that may be
10 required by section ~~[846E-2(d)(1)]~~ 846E-2(c)(1)
11 through (12);
- 12 (5) While reporting to the chief of police or such other
13 department or agency designated by the attorney
14 general, does not allow the police or other designated
15 department or agency to take a current photograph of
16 the person;
- 17 (6) Fails to register in person with the chief of police
18 having jurisdiction of the area where the covered
19 offender resides or is present within three working
20 days whenever the provisions of section ~~[846E-2(g)]~~
21 846E-2(f) require the person to do so;



1 (7) Fails to notify the attorney general or the Hawaii
2 criminal justice data center of a change of any of the
3 covered offender's registration information in writing
4 within three working days of the change;

5 (8) Provides false registration information to the
6 attorney general, the Hawaii criminal justice data
7 center, or a chief of police;

8 (9) Signs a statement verifying that all of the
9 registration information is accurate and current when
10 any of the registration information is not
11 substantially accurate and current;

12 (10) Having failed to establish a new residence within the
13 ten days while absent from the person's registered
14 residence for ten or more days[+
15

16 ~~(A) Fails]~~ fails to notify the attorney general in
17 writing within three working days [~~that the~~
18 ~~person no longer resides at the person's~~
19 ~~registered residence; or]~~ of the covered
offender's current residence information;

20 [~~(B) Fails to report to a police station in the State~~
21 ~~by the last day of every month; or]~~



1 (11) Fails to mail or deliver the periodic verification of
2 registration information form to the attorney general
3 within ten days of receipt, as required by section
4 846E-5; provided that it shall be an affirmative
5 defense that the periodic verification form mailed to
6 the covered offender was delivered when the covered
7 offender was absent from the registered address and
8 the covered offender had previously notified the
9 Hawaii criminal justice data center that the covered
10 offender would be absent during the period that the
11 periodic verification form was delivered[-]; or

12 (12) Fails to report to the chief of police where the
13 covered offender resides, or to such other department
14 or agency that may be designated by the attorney
15 general in rules adopted pursuant to chapter 91, by
16 the last day of every month for verification of the
17 covered offender's registration information, as
18 required by section 846E-5(b).

19 (b) With respect to subsection (a)(1), (2), (6), (7),
20 (10), (11), or (12), if a defendant intends to rely upon the
21 defense that the covered offender was in custody or civilly
22 committed, the defendant shall within the time provided for the



1 filing of pretrial motions or at a later time as the court may
2 direct, notify the prosecutor in writing of the defendant's
3 intention and file a copy of the notice with the court.

4 [~~(b)~~] (c) Failure to comply with covered offender
5 registration requirements is a class C felony."

6 SECTION 11. Section 846E-10, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) Tier 3 offenses. A covered offender whose covered
10 offense is any of the following offenses shall register for life
11 and, except as provided in subsection (e), may not petition the
12 court, in a civil proceeding, for termination of registration
13 requirements:

14 (1) Any offense set forth in section 707-730(1)(a), (b),
15 (d), or (e), 707-731(1)(a) or (b), 707-732(1)(a), (b),
16 or (f), or 707-733.6;

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

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



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

3 (5) Any federal, military, ~~[or]~~ out-of-state, tribal, or
4 foreign offense that is comparable to one of the
5 offenses in paragraph (1), (2), or (3)."

6 2. By amending subsections (c) and (d) to read:

7 "(c) Tier 2 offenses. A covered offender who has
8 maintained a clean record for the previous twenty-five years,
9 excluding any time the offender was in custody or civilly
10 committed, and who has substantially complied with the
11 registration requirements of this chapter for the previous
12 twenty-five years, or for the portion of that twenty-five years
13 that this chapter has been applicable, and who is not a repeat
14 covered offender may petition the court, in a civil proceeding,
15 for termination of registration requirements; provided that the
16 covered offender's most serious covered offense is one of the
17 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), as section 712-
21 1203(1)(b) read prior to its amendment pursuant to
22 section 9 of Act 147, Session Laws of Hawaii 2008;



1 (2) An offense set forth in section 707-720; provided that
2 the charging document for the offense for which there
3 has been a conviction alleged intent to subject the
4 victim to a sexual offense;

5 (3) An offense set forth in section 707-756 that includes
6 an intent to promote or facilitate the commission of
7 another felony covered offense as defined in section
8 846E-1;

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

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

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

17 (d) Tier 1 offenses. A covered offender who has
18 maintained a clean record for the previous ten years, excluding
19 any time the offender was in custody or civilly committed, and
20 who has substantially complied with the registration
21 requirements of this chapter for the previous ten years, or for
22 the portion of that ten years that this chapter has been



1 applicable, and who is not a repeat covered offender may
2 petition the court, in a civil proceeding, for termination of
3 registration requirements; provided that the covered offender's
4 most serious covered offense is one of the following:

5 (1) Any offense set forth in section 707-732(1)(d) or (e),
6 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-
7 1202(1)(a), or 712-1203(1);

8 (2) An offense set forth in section 707-721 or 707-722;
9 provided that the offense involves unlawful
10 imprisonment of a minor by someone other than a
11 parent;

12 (3) An offense set forth in section 707-757 that includes
13 an intent to promote or facilitate the commission of
14 another covered offense as defined in section 846E-1;

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

18 (5) Any criminal offense that is comparable to one of the
19 offenses in paragraph (1), (2), (3), or (4); [~~or~~]

20 (6) Any federal, military, [~~or~~] out-of-state, tribal, or
21 foreign offense that is comparable to one of the
22 offenses in paragraph (1), (2), (3), or (4) [~~or~~]; or



1 (7) Any other covered offense that is not specified in
2 subsection (a) or (c) or paragraph (1), (2), (3), (4),
3 (5), or (6)."

4 SECTION 12. Sections 2, 3, 4, 6, 7, 8, 9, and 11 shall
5 apply to any acts committed prior to, on, or after the effective
6 date of this Act.

7 SECTION 13. Section 10 of this Act does not affect rights
8 and duties that matured, penalties that were incurred, and
9 proceedings that were begun, before the effective date of this
10 Act.

11 SECTION 14. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 15. This Act shall take effect on July 1, 2050.



Report Title:

Covered Offenders; Registration

Description:

Adds comparable foreign convictions and tribal convictions to covered offenses; makes offenders who are subject to sex offender registration or notification in their jurisdiction of conviction, covered offenders under Hawaii law; makes it clear that a covered offender must register and report the offender's permanent residence, current temporary residence, or if an address is not available, a description of the place or area in which the covered offender resides; amends the definition of "conviction" in section 846E-1, Hawaii Revised Statutes, to clarify that conviction, for purposes of sex offender registration, occurs on the date judgment is entered; creates a tier classification for any covered sexual offenses that are not clearly included within the current tier classification law; addresses the problem of covered offenders who do not have registered residences to which the post office can deliver mail and cannot receive the ninety-day verification mailings by requiring these offenders to report in person during the first weeks of the months of January, April, July, and October; and repeals the definitions of "mental abnormality," "personality disorder," and "predatory." Makes conforming amendments. Effective 07/01/50. (SD1)

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