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# A BILL FOR AN ACT

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RELATING TO COVERED OFFENDER REGISTRATION.

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

1       SECTION 1. The purpose of this Act is to:

2       (1) Specifically include section 707-733(1)(b), Hawaii  
3       Revised Statutes, as a tier 1 covered sexual offense  
4       when the offense is committed toward a minor; and

5       (2) Amend chapter 846E, Hawaii Revised Statutes, the  
6       covered offender registration law, to require  
7       defendants charged with a covered offense to register  
8       whether they were subsequently involuntarily  
9       committed; found unfit to proceed; had charges  
10      dismissed by reason of physical or mental disease,  
11      disorder, or defect; or were acquitted by reason of  
12      physical or mental disease, disorder, or defect.

13      SECTION 2. Section 846E-1, Hawaii Revised Statutes, is  
14      amended by amending the definitions of "offender against  
15      minors", "release", "repeat covered offender", "sex offender",  
16      and "sexual offense" to read as follows:



1        "Offender against minors" means a person who is not a "sex  
2 offender", as defined in this section, and ~~[is or]~~ has been~~[+]~~  
3 charged, at any time, with a crime against minors, as defined in  
4 this section and:

5        (1) ~~Convicted [at any time, whether before or after May 9,~~  
6 ~~2005, of a "crime against minors" as defined in this~~  
7 ~~section; or] ;~~

8        (2) ~~[Charged at any time, whether before or after May 9,~~  
9 ~~2005, with a "crime against minors" as defined in this~~  
10 ~~section and who is found] Found unfit to proceed [and~~  
11 ~~is released into the community or who is], or~~  
12 ~~acquitted or had charges dismissed due to a physical~~  
13 ~~or mental disease, disorder, or defect pursuant to~~  
14 ~~chapter 704 [and is released into the community.]; or~~

15        (3) Involuntarily hospitalized pursuant to section  
16 706-607.

17        "Release" means release from:

- 18        (1) Imprisonment;  
19        (2) Imprisonment and placed on parole;  
20        (3) Imprisonment and placed on furlough;



(4) Any form of commitment, custody, or confinement resulting from an order made pursuant to chapter 704[+] or section 706-607 or 334-60.2; or

(5) A halfway house or other equivalent facility, whichever is later.

"Repeat covered offender" means:

(1) A person who [~~is or~~] has been convicted at any time[ ~~whether before or after May 9, 2005,~~] of more than one covered offense as defined in this section, except that a conviction for multiple counts within a single charging document that allege covered offenses against the same victim and that allege the same date of the covered offense against that single victim shall be considered, for the purposes of this definition, a single covered offense; or

(2) A person who is or has been charged at any time[ ~~whether before or after May 9, 2005,~~] with more than one covered offense as defined in this section and who has been, more than once, either:

(A) Convicted;



1 (B) Found unfit to proceed pursuant to chapter 704;

2 [~~or~~]

3 (C) Acquitted or charges were dismissed due to a  
4 physical or mental disease, disorder, or defect  
5 pursuant to chapter 704 [~~-~~]; or

6 (D) Involuntarily hospitalized pursuant to section  
7 706-607.

8 "Sex offender" means [~~-~~] a person who has been charged at  
9 any time with a sexual offense, as defined in this section, and:

10 (1) [~~A person who is or has been convicted at any time,~~  
11 ~~whether before or after May 9, 2005, of a "sexual~~  
12 ~~offense"; ~~or~~] Convicted;~~

13 (2) [~~A person who is or has been charged at any time,~~  
14 ~~whether before or after May 9, 2005, with a "sexual~~  
15 ~~offense" and is or has been found] Found unfit to  
16 proceed [~~and is or has been released into the~~  
17 ~~community or who is], or acquitted or had charges  
18 dismissed due to a physical or mental disease,  
19 disorder, or defect pursuant to chapter 704 [~~and is~~  
20 ~~released into the community-]; or~~~~~~



1       (3) Involuntarily hospitalized pursuant to section  
2             706-607.

3       "Sexual offense" means an offense that is:

4       (1) Set forth in section 707-730(1), 707-731(1),  
5             707-732(1), 707-733(1)(a), 707-733.6, 712-1202(1), or  
6             712-1203(1), but excludes conduct that is criminal  
7             only because of the age of the victim, as provided in  
8             section 707-730(1)(b), or section 707-732(1)(b) if the  
9             perpetrator is under the age of eighteen;

10       (2) An act defined in section 707-720 if the charging  
11             document for the offense for which there has been a  
12             conviction alleged intent to subject the victim to a  
13             sexual offense;

14       (3) An act that consists of:

15             (A) Criminal sexual conduct toward a minor, including  
16             but not limited to an offense set forth in  
17             section 707-759[+] and an offense set forth in  
18             section 707-733(1)(b) that is committed toward a  
19             minor;

20             (B) Solicitation of a minor who is less than fourteen  
21             years old to engage in sexual conduct;



- 1 (C) Use of a minor in a sexual performance;
- 2 (D) Production, distribution, or possession of child
- 3 pornography chargeable as a felony under section
- 4 707-750, 707-751, or 707-752;
- 5 (E) Electronic enticement of a child chargeable under
- 6 section 707-756 or 707-757 if the offense was
- 7 committed with the intent to promote or
- 8 facilitate the commission of another covered
- 9 offense as defined in this section; or
- 10 (F) Solicitation of a minor for prostitution in
- 11 violation of section 712-1209.1;
- 12 (4) A violation of privacy under section 711-1110.9;
- 13 (5) An act, as described in chapter 705, that is an
- 14 attempt, criminal solicitation, or criminal conspiracy
- 15 to commit one of the offenses designated in paragraphs
- 16 (1) through (4);
- 17 (6) A criminal offense that is comparable to or that
- 18 exceeds a sexual offense as defined in paragraphs (1)
- 19 through (5); or
- 20 (7) Any federal, military, out-of-state, tribal, or
- 21 foreign conviction for any offense that under the laws



1 of this State would be a sexual offense as defined in  
2 paragraphs (1) through (6)."

3 SECTION 3. Section 846E-2, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsections (d) and (e) to read:

6 "(d) Registration information for each covered offender  
7 shall include a signed statement by the covered offender  
8 containing:

9 (1) The name, all prior names, nicknames and pseudonyms,  
10 and all aliases used by the covered offender or under  
11 which the covered offender has been known and other  
12 identifying information, including date of birth and  
13 any alias date of birth, social security number and  
14 any alias social security number, sex, race, height,  
15 weight, and hair and eye color;

16 (2) The actual address and telephone number of the covered  
17 offender's permanent residence or the address of the  
18 covered offender's current temporary residence, or if  
19 an address is not available, a description of the  
20 place or area in which the covered offender resides  
21 for at least thirty nonconsecutive days within a



1           sixty-day period, and for each address or place where  
2           the covered offender resides, how long the covered  
3           offender has resided there;

4           (3) The actual address or description of the place or  
5           area, the actual length of time of the stay, and  
6           telephone number where the covered offender is staying  
7           for a period of more than ten days, if other than the  
8           stated residence;

9           (4) If known, the future address and telephone number of  
10          the place where the covered offender is planning to  
11          reside, if other than the stated residence;

12          (5) Any electronic mail address, any instant message name,  
13          any internet designation or moniker, and any internet  
14          address used for routing or self-identification;

15          (6) Any cell phone number and other designations used for  
16          routing or self-identification in telephonic  
17          communications;

18          (7) Names and, if known, actual business addresses of  
19          current and known future employers, including  
20          information for any place where the covered offender  
21          works as a volunteer or otherwise works without





1 remuneration, and the starting and ending dates of any  
2 such employment;

3 (8) For covered offenders who may not have a fixed place  
4 of employment, a description of the places where such  
5 a covered offender works, such as information about  
6 normal travel routes or the general area or areas in  
7 which the covered offender works;

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

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

15 (11) The year, make, model, color, and license or  
16 registration or other identifying number of all  
17 vehicles, including automobiles, watercrafts, and  
18 aircrafts, currently owned or operated by the covered  
19 offender and the address or description of the place  
20 or places where the covered offender's vehicle or



1 vehicles are habitually parked, docked, or otherwise  
2 kept;

3 (12) Passports and information about the passports, if the  
4 covered offender has passports, and documents  
5 establishing immigration status and information about  
6 these documents, if the covered offender is an alien;

7 (13) A statement listing all covered offenses for which the  
8 covered offender ~~[has been convicted or found unfit to~~  
9 ~~proceed or acquitted pursuant to chapter 704,]~~ is  
10 required to register;

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

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

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

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

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



- 1           (2) A physical description of the covered offender,  
2           including a description of particular identifying  
3           characteristics such as scars or tattoos;
- 4           (3) Confirmation that the covered offender has provided  
5           digitized fingerprints and palm prints of the covered  
6           offender;
- 7           (4) Judgment of conviction, judgment of acquittal, [~~or~~]  
8           judicial determination of unfitness to proceed, order  
9           of dismissal, or order for involuntary hospitalization  
10          documenting the criminal offense or offenses for which  
11          the covered offender is registered;
- 12          (5) The text, or an electronic link to the text, of the  
13          provision of law defining the criminal offense or  
14          offenses for which the covered offender is registered;
- 15          (6) The criminal history of the covered offender, or an  
16          electronic link to the criminal history, including the  
17          date of all arrests and convictions, the status of  
18          parole, probation, or supervised release, registration  
19          status, and the existence of any outstanding arrest  
20          warrants for the covered offender;



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

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

6 (9) Digitized copies of passports and documents  
7 establishing immigration status, or an electronic link  
8 to such records."

9 2. By amending subsections (g) and (h) to read:

10 "(g) In addition to the requirement under subsection (a)  
11 to register with the attorney general and comply with the  
12 provisions of this chapter until a court relieves the covered  
13 offender of the registration requirements of this chapter, each  
14 covered offender shall also register in person with the chief of  
15 police where the covered offender resides or is present.

16 Registration under this subsection is for the purpose of  
17 providing the covered offender's photograph, fingerprints, and  
18 registration information. Registration under this subsection is  
19 required whenever the covered offender, whether or not a  
20 resident of this State, remains in this State for more than ten  
21 days or for an aggregate period exceeding thirty days in one



1 calendar year. Covered offenders required to register in person  
2 with the chief of police under this subsection shall register no  
3 later than three working days after the earliest of:

4 (1) Arrival in this State;

5 (2) Release from incarceration;

6 (3) Release from commitment[+] or involuntary  
7 hospitalization;

8 (4) Release on furlough;

9 (5) Conviction for a covered offense, unless incarcerated;

10 (6) Release on probation;

11 (7) Placement on parole; or

12 (8) Arrival in a county in which the covered offender  
13 resides or expects to be present for a period  
14 exceeding ten days.

15 In addition to any other requirement to register under this  
16 subsection or subsection (a), each covered offender shall report  
17 in person [~~every five years until June 30, 2009, and beginning~~  
18 ~~on July 1, 2009,~~] every year, within the thirty-day period  
19 following the offender's date of birth, to the chief of police  
20 where the covered offender resides, or to such other department  
21 or agency that may be designated by the attorney general in



1 rules adopted pursuant to chapter 91 for purposes of the  
2 administration of this subsection, and shall review the existing  
3 information in the registry that is within the offender's  
4 knowledge, correct any information that has changed or is  
5 inaccurate, provide any new information that may be required,  
6 and allow the police and such other department or agency  
7 designated by the attorney general to take a current photograph  
8 of the offender.

9 (h) The registration provisions of this section shall  
10 apply to all covered offenders without regard to:

- 11 (1) The date of the covered offender's conviction;  
12 (2) The date of finding, pursuant to chapter 704, of the  
13 covered offender's unfitness to proceed; or  
14 (3) The date of the covered offender's acquittal or  
15 dismissal due to a physical or mental disease,  
16 disorder, or defect, pursuant to chapter 704 [-]; or  
17 (4) The date of the covered offender's order for  
18 involuntary hospitalization pursuant to section 706-  
19 607."

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



1 1. By amending subsection (b) to read:

2 "(b) For purposes of this section, "public information"

3 means:

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

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

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

13 (4) The actual address where the covered offender resides  
14 or any current, temporary address where the covered  
15 offender resides or, if an address is not available, a  
16 description of any 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;



1 (5) The actual address or description of the place or area  
2 where the covered offender is staying for more than  
3 ten days, if other than the stated residence, and the  
4 actual length of time of the stay;

5 (6) The future actual address, if known, where the covered  
6 offender is planning to reside, if other than the  
7 stated residence;

8 (7) The street name and zip code of the covered offender's  
9 current locations of employment, including information  
10 for any place where the covered offender works as a  
11 volunteer or otherwise works without remuneration;

12 (8) For covered offenders who may not have a fixed place  
13 of employment, a description of the places where such  
14 a covered offender works;

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

16 (10) Names and actual addresses of current and known future  
17 educational institutions with which the covered  
18 offender is affiliated as a faculty member, an  
19 employee, or a student, and the starting and ending  
20 dates of any such affiliation;





(11) The year, make, model, color, and license number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender, excluding vehicles operated exclusively for purposes of work;

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

(13) Judgment of conviction, judgment of acquittal, ~~[or]~~ judicial determination of unfitness to proceed, order of dismissal, or order for involuntary hospitalization documenting the criminal offense or offenses for which the covered offender is registered;

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

(15) A recent photograph of the covered offender.

The identity of any victim of a sexual offense shall not be disclosed and any documentation containing such information shall be redacted to prevent disclosure."



1           2. By amending subsection (e) to read:

2           "(e) Public access to a covered offender's public  
3 information shall be permitted with regard to each covered  
4 offender beginning the next working day following the filing of  
5 a judgment of conviction, a finding of unfitness to proceed, or  
6 a dismissal or an acquittal due to a physical or mental disease,  
7 disorder, or defect, for a covered offense, or as soon  
8 thereafter as is practical. When a notice of appeal has been  
9 filed, the public information shall note that the covered  
10 offender has filed a notice of appeal. The public information  
11 shall be removed upon the reversal of the covered offender's  
12 conviction or the granting of a pardon to the covered offender."

13          3. By amending subsection (k) to read:

14          "(k) "Conviction" as used in this section means:

- 15           (1) A judgment on the verdict, or a finding of guilt after  
16 a plea of guilty or nolo contendere, excluding the  
17 adjudication of a minor;  
18           (2) A finding of unfitness to proceed resulting in the  
19 release of the covered offender into the community,  
20 excluding such a finding as to a minor; [e~~x~~]



(3) An acquittal or dismissal due to a physical or mental disease, disorder, or defect pursuant to chapter 704 resulting in the release of the covered offender into the community, excluding such acquittal as to a minor[-]; or

(4) An order of involuntary hospitalization pursuant to section 706-607."

SECTION 5. Section 846E-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each person, or that person's designee, in charge of a jail, prison, hospital, school, or other institution to which a covered offender has been committed pursuant to a conviction, or an acquittal, dismissal, or finding of unfitness to proceed pursuant to chapter 704, or involuntary hospitalization pursuant to section 706-607 for a covered offense, and each judge, or that judge's designee, who continues bail for or releases a covered offender following sentencing and the entry of a judgment of conviction, who releases a covered offender on probation or who discharges a covered offender upon payment of a fine, and each agency having jurisdiction, shall, prior to the discharge, parole, or release of the covered offender:



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



1           obtained or verified in connection with the offense  
2           that triggers the registration;

3           (6) Require the covered offender to sign a statement  
4           indicating that the duty to register has been  
5           explained to the covered offender; and

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

8           SECTION 6. Section 846E-5, Hawaii Revised Statutes, is  
9           amended by amending subsection (c) to read as follows:

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

15          SECTION 7. Section 846E-10, Hawaii Revised Statutes, is  
16          amended by amending subsection (d) to read as follows:

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



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

6 (1) Any offense set forth in section 707-732(1)(d) or (e),  
7 707-733(1)(a), 707-752, 707-759, 711-1110.9,  
8 712-1203(1), or 712-1209.1;

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

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

16 (4) An offense set forth in section 707-733(1)(b) that is  
17 committed toward a minor;

18 ~~[(4)]~~ (5) An offense that is an attempt, criminal  
19 solicitation, or criminal conspiracy to commit any of  
20 the offenses in paragraph (1), (2), ~~[or]~~ (3) ~~[or]~~, or  
21 (4);



1       ~~[(5)]~~ (6) Any criminal offense that is comparable to one of  
2               the offenses in paragraph (1), (2), (3), ~~[or]~~ (4) ~~[7]~~,  
3               or (5);

4       ~~[(6)]~~ (7) Any federal, military, out-of-state, tribal, or  
5               foreign offense that is comparable to one of the  
6               offenses in paragraph (1), (2), (3), ~~[or]~~ (4) ~~[7]~~, or  
7               (5); or

8       ~~[(7)]~~ (8) Any other covered offense that is not specified  
9               in subsection (a) or (c) or ~~[paragraph]~~ paragraphs  
10              (1) ~~[, (2), (3), (4), (5), or (6)]~~ to (7)."

11       SECTION 8. Section 846E-12, Hawaii Revised Statutes, is  
12       amended to read as follows:

13       "~~[(1)]~~ §846E-12 ~~[(1)]~~ Tolling. The time periods provided for in  
14       this chapter shall be tolled during any period of time the  
15       covered offender is committed or recommitted to prison or  
16       confined to a halfway house, or an equivalent facility, pursuant  
17       to a parole or probation violation~~[-]~~ or committed or  
18       involuntarily hospitalized to a psychiatric facility."

19       SECTION 9. Statutory material to be repealed is bracketed  
20       and stricken. New statutory material is underscored.



1           SECTION 10.   This Act shall take effect upon its approval.

2





**Report Title:**

Covered Offender Registration

**Description:**

Adds section 707-733(1)(b), Hawaii Revised Statutes, as a covered offense when committed towards a minor, and provides uniformity to the requirements for defendants that are involuntarily hospitalized pursuant to section 706-607, Hawaii Revised Statutes, or have charges dismissed by reason of physical or mental disease, disorder, or defect pursuant to chapter 704, Hawaii Revised Statutes. (SD1)

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