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# A BILL FOR AN ACT

RELATING TO COVERED OFFENDER REGISTRATION.

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

1 SECTION 1. The Hawaii supreme court, in its ruling in  
2 *Doe v. Connors*, 145 Haw. 469, 454 P. 3d 410 (2019), held that  
3 Doe, who was required to register as a sex offender in the State  
4 of Washington, was not required to register as a covered sex  
5 offender under Hawaii law. Doe had been convicted in  
6 Washington for communication with a minor for an immoral  
7 purpose. The Hawaii supreme court held that the offense did  
8 not match any of Hawaii's covered offenses, including  
9 solicitation to engage in sexual conduct with a minor who is  
10 less than fourteen years old.

11 As a result of the *Doe* decision, a person who visits  
12 Hawaii for more than ten days or visits Hawaii for an  
13 aggregate period exceeding thirty days per year does not need  
14 to register as a covered offender in Hawaii if the person's  
15 out-of-state conviction does not correspond to a covered  
16 offense under Hawaii law.

17 The purpose of this Act is to require those persons who  
18 have been designated as a covered offender, sex offender,



1 offender against minors, repeat covered offender, sexually  
2 violent predator, or any other sexual offender designation in  
3 another state or jurisdiction, and were, as a result, subject to  
4 registration in that state or jurisdiction, or would be if  
5 residing in that state or jurisdiction, to be subject to  
6 registration requirements in Hawaii.

7 SECTION 2. Section 846E-2, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) A person who establishes or maintains a residence  
10 in this State or who remains in this State for more than ten  
11 days or for an aggregate period exceeding thirty days in one  
12 calendar year, and who has not been designated as a covered  
13 offender by a court of this State but who has been designated  
14 as a covered offender, sex offender, offender against minors,  
15 repeat covered offender, sexually violent predator, or any  
16 other sexual offender designation in another state or  
17 jurisdiction and was, as a result of [~~such~~] the designation,  
18 subjected to registration or community or public  
19 notification, or both, or would be if the person was a  
20 resident of that state or jurisdiction, without regard to  
21 whether the person otherwise meets the criteria for



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

9 (1) [~~Providing~~] The attorney general for termination of  
10 registration requirements by providing an order  
11 issued by the court that designated the person as a  
12 covered offender, sex offender, offender against  
13 minors, repeat covered offender, sexually violent  
14 predator, or any other sexual offender designation  
15 in the state or jurisdiction in which the order was  
16 issued, which states that [~~such~~] the designation has  
17 been removed or demonstrates to the attorney general  
18 that [~~such~~] the designation, if not imposed by a  
19 court, has been removed by operation of law or court  
20 order in the state or jurisdiction in which the  
21 designation was made, and [~~such~~] the person does not



1 meet the criteria for registration as a covered  
2 offender under the laws of this State [~~7-07~~]; provided  
3 that if the person is not satisfied with the decision  
4 of the attorney general on the request for  
5 termination of registration requirements, the person  
6 may appeal the decision pursuant to chapter 91; or

7 (2) [~~Demonstrating that the out of state convictions~~  
8 ~~upon which the sexual offender designation was~~  
9 ~~established are not covered offenses under~~  
10 ~~section 846E-1, thereby showing that such person~~  
11 ~~does not meet the criteria for registration as a~~  
12 ~~covered offender under the laws of this State.] The  
13 court for termination of registration requirements  
14 pursuant to section 846E-10.~~

15 [~~If the covered offender is not satisfied with the decision~~  
16 ~~of the attorney general on the request for termination of~~  
17 ~~registration requirements, the covered offender may appeal~~  
18 ~~the decision pursuant to chapter 91.] "~~

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



1           "§846E-10 Termination of registration requirements. (a)  
2 Tier 3 offenses. A covered offender whose covered offense is  
3 any of the following offenses shall register for life and,  
4 except as provided in subsection (e), may not petition the  
5 court, in a civil proceeding, for termination of registration  
6 requirements:

- 7           (1) Any offense set forth in section 707-730(1)(a), (b),  
8                 (d), or (e) [7]; 707-731(1)(a) or (b) [7];  
9                 707-732(1)(a), (b), or (f) [7]; or 707-733.6;
- 10          (2) An offense set forth in section 707-720; provided that  
11                 the offense involves kidnapping of a minor by someone  
12                 other than a parent;
- 13          (3) An offense that is an attempt, criminal solicitation,  
14                 or criminal conspiracy to commit any of the offenses  
15                 in paragraph (1) or (2);
- 16          (4) Any criminal offense that is comparable to one of the  
17                 offenses in paragraph (1), (2), or (3); or
- 18          (5) Any federal, military, out-of-state, tribal, or  
19                 foreign offense that is comparable to one of the  
20                 offenses in paragraph (1), (2), or (3).



1 (b) A repeat covered offender shall register for life and,  
2 except as provided in subsection (e), may not petition the  
3 court, in a civil proceeding, for termination of registration  
4 requirements.

5 (c) Tier 2 offenses. A covered offender who has  
6 maintained a clean record for the previous twenty-five years,  
7 excluding any time the offender was in custody or civilly  
8 committed, and who has substantially complied with the  
9 registration requirements of this chapter for the previous  
10 twenty-five years, or for the portion of that twenty-five years  
11 that this chapter has been applicable, and who is not a repeat  
12 covered offender may petition the court, in a civil proceeding,  
13 for termination of registration requirements; provided that the  
14 covered offender's most serious covered offense is one of the  
15 following:

16 (1) Any offense set forth in section 707-730(1)(c),  
17 707-731(1)(c), 707-732(1)(c), 707-750, 707-751,  
18 712-1202, or 712-1203(1)(b), as section 712-1203(1)(b)  
19 read [~~prior to~~] before its amendment pursuant to  
20 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  
8           section 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, 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



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 that is an attempt, criminal solicitation,  
17 or criminal conspiracy to commit any of the offenses  
18 in paragraph (1), (2), or (3);
- 19 (5) Any criminal offense that is comparable to one of the  
20 offenses in paragraph (1), (2), (3), or (4);



1           (6) Any federal, military, out-of-state, tribal, or  
2           foreign offense that is comparable to one of the  
3           offenses in paragraph (1), (2), (3), or (4); or  
4           (7) Any other covered offense that is not specified in  
5           subsection (a) or (c) or paragraph (1), (2), (3), (4),  
6           (5), or (6).

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

13           (f) In the civil proceeding for termination of  
14 registration requirements, the State shall be represented by the  
15 attorney general; provided that the attorney general, with the  
16 prosecuting agency's consent, may designate the prosecuting  
17 agency that prosecuted the covered offender for the most recent  
18 covered offense within the State to represent the State. For  
19 covered offenders who have never been convicted of a covered  
20 offense within the State [~~of Hawaii~~], the attorney general shall  
21 represent the State; provided that the attorney general, with



1 the prosecuting agency's consent, may designate the prosecuting  
2 agency for the county in which the covered offender resides to  
3 represent the State. The court may order this termination upon  
4 substantial evidence and more than proof by a preponderance of  
5 the evidence that:

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

16 ~~[(g) A denial by the court for relief pursuant to a  
17 petition under this section shall preclude the filing of another  
18 petition for five years from the date of the last denial.]~~

19 (g) A person who does not meet the criteria for  
20 registration as a covered offender under the laws of this State,  
21 but is subject to registration pursuant to section 846E-2(b),



1 may petition the court, in a civil proceeding, for termination  
2 of registration requirements; provided that the person has  
3 maintained a clean record for the previous ten years, excluding  
4 any time the person was in custody or civilly committed; has  
5 substantially complied with the registration requirements of  
6 this chapter for the previous ten years; and was not designated  
7 a repeat covered offender in any state or jurisdiction. The  
8 attorney general shall represent the State; provided that the  
9 attorney general, with the prosecuting agency's consent, may  
10 designate the prosecuting agency for the county in which the  
11 person resides to represent the State. The court may order this  
12 termination upon substantial evidence and more than proof by a  
13 preponderance of the evidence that:

- 14       (1) The person has met the statutory requirements of  
15           eligibility to petition for termination;
- 16       (2) The person has substantially complied with  
17           registration requirements;
- 18       (3) The person is very unlikely to commit a covered  
19           offense; and



1       (4) Registration by the person will not assist in  
2               protecting the safety of the public or any member  
3               thereof.

4       (h) A denial by the court for relief pursuant to a  
5 petition under this section shall preclude the filing of another  
6 petition for five years from the date of the most recent  
7 denial."

8       SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10       SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Covered Offender Registration; Out-of-State Covered Offender Designations

**Description:**

Repeals provision that allows persons designated as covered offenders in another state or jurisdiction to petition the attorney general for termination of registration requirements upon demonstrating that the out of state convictions are not covered offenses in the State of Hawaii. Requires certain long term visitors to Hawaii with out-of-state convictions to register. Clarifies how persons required to register can petition to terminate registration. (CD1)

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

