
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 Hawaii 469, 454 P. 3d 410 (2019), held
3 that Doe, who was required to register as a sex offender in the
4 State of Washington, was not required to register as a covered
5 sex offender under Hawaii law. Doe had been convicted in
6 Washington of the offense of "communication with a minor for
7 immoral purpose of a sexual nature." The Court held that the
8 offense did not precisely match any of Hawaii's covered
9 offenses, including the offense of "solicitation to engage in
10 sexual conduct with a minor who is less than 14 years old."

11 As a result of the Doe decision, a person who resides or
12 maintains a residence in Hawaii, visits Hawaii for ten or
13 more days, or visits Hawaii for thirty or more days a year,
14 does not need to register as a covered offender in Hawaii if
15 the person's out-of-state conviction does not precisely match
16 up with a Hawaii covered offense.



1 The purpose of this Act is to require those persons who
 2 have been designated as a covered offender, sex offender,
 3 offender against minors, repeat covered offender, sexually
 4 violent predator, or any other sexual offender designation in
 5 another state, and were, as a result, subject to registration in
 6 that state, or would be if residing in that state, to be subject
 7 to registration requirements in the State of Hawaii.

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

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



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

- 10 (1) [~~Providing~~] The attorney general for termination of
 11 registration requirements by providing an order
 12 issued by the court that designated the person as a
 13 covered offender, sex offender, offender against
 14 minors, repeat covered offender, sexually violent
 15 predator, or any other sexual offender designation
 16 in the state or jurisdiction in which the order was
 17 issued, which states that [~~such~~] the designation has
 18 been removed or demonstrates to the attorney general
 19 that [~~such~~] the designation, if not imposed by a
 20 court, has been removed by operation of law or court
 21 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[~~;~~]; provided that if the
 4 person is not satisfied with the decision of the
 5 attorney general on the request for termination of
 6 registration requirements, the person may appeal the
 7 decision pursuant to chapter 91; or

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

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

20 SECTION 3. Section 846E-10, Hawaii Revised Statutes, is
 21 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), 707-731(1)(a) or (b), 707-732(1)(a), (b),
9 or (f), 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 its amendment pursuant to section 9 of
20 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, 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 the person has maintained
3 a clean record for the previous ten years, excluding any time
4 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 last denial."

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

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

10



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. (SD1)

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

