
A BILL FOR AN ACT

RELATING TO CHAPTER 846E.

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

1 SECTION 1. Section 846E-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "repeat covered offender"
3 to read as follows:

4 "Repeat covered offender" means:

- 5 (1) A person who is or has been convicted at any time,
6 whether before or after May 9, 2005, of more than one
7 covered offense as defined in this section~~[+]~~, except
8 that a conviction for multiple counts within a single
9 charging document that allege covered offenses against
10 the same victim and that allege the same date of the
11 covered offense against that single victim shall be
12 considered, for the purposes of this definition, a
13 single covered offense; or
- 14 (2) A person who is or has been charged at any time,
15 whether before or after the May 9, 2005, with more
16 than one covered offense as defined in this section
17 and who has been, more than once, either:
- 18 (A) Convicted;



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

3 (C) Acquitted due to a physical or mental disease,
4 disorder, or defect pursuant to chapter 704."

5 SECTION 2. Section 846E-2, Hawaii Revised Statutes, is
6 amended by amending subsection (e) to read as follows:

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

22 (1) Arrival in this State;



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

10 In addition to any other requirement to register under this

11 subsection or subsection (a), each covered offender shall report

12 in person every five years to the chief of police where the

13 covered offender resides for purposes of having a new photograph

14 taken."

15 SECTION 3. Section 846E-3, Hawaii Revised Statutes, is

16 amended by amending subsection (e) to read as follows:

17 "(e) After forty years have elapsed after release or

18 sentencing, whichever is later, for covered offenders subject to

19 subsection (c), paragraph (1); thirty years have elapsed after

20 release or sentencing, whichever is later, for covered offenders

21 subject to subsection (c), paragraph (2); twenty-five years have

22 elapsed after release or sentencing, whichever is later, for



1 covered offenders subject to subsection (c), paragraph (3);
2 fifteen years have elapsed after release or sentencing,
3 whichever is later for covered offenders subject to subsection
4 (c), paragraph (4); and ten years have elapsed after release or
5 sentencing, whichever is later, for covered offenders subject to
6 subsection (c), paragraph (5), a covered offender may petition
7 the court in a civil proceeding to terminate public access. In
8 the civil proceeding to terminate public access, the State shall
9 be represented by the attorney general; provided that the
10 attorney general, with the prosecuting agency's consent, may
11 designate the prosecuting agency that prosecuted the covered
12 offender for the most recent covered offense within the State to
13 represent the State. For covered offenders who have never been
14 convicted of a covered offense within the State of Hawaii, the
15 attorney general shall represent the State; provided that the
16 attorney general, with the prosecuting agency's consent, may
17 designate the prosecuting agency for the county in which the
18 covered offender resides to represent the State. The court may
19 order this termination upon proof by a preponderance of the
20 evidence that the covered offender:

21 (1) Has had no new convictions for covered offenses;



1 (2) Is very unlikely to commit a covered offense ever
2 again; and

3 (3) Public access to the covered offender's public
4 information will not assist in protecting the safety
5 of the public or any member thereof;

6 provided that a denial by the court for relief pursuant to a
7 petition under this section shall preclude the filing of another
8 petition for five years from the date of the last denial."

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

11 "(a) A covered offender required to register under this
12 chapter, who changes any of the covered offender's registration
13 information after an initial registration with the attorney
14 general, shall notify the attorney general of the new
15 registration information in writing within three working days of
16 the change. For purposes of this section, a person shall be
17 deemed to have established a new residence during any period in
18 which the person is absent from the person's registered
19 residence for ten or more days. If, at any time, a covered
20 offender required to register under this chapter is absent from
21 the person's registered residence for ten or more days and fails
22 to establish a new residence within the ten days that the

1 covered offender is absent from their registered residence, the
2 covered offender shall, in addition to notifying the attorney
3 general in writing within three working days that the covered
4 offender no longer resides at the covered offender's registered
5 residence, also report to any police station in the State by the
6 last day of every month for verification of identity by
7 photograph and finger print impression until the covered
8 offender establishes a new residence and notifies the attorney
9 general in writing of the actual address of the new residence.
10 Each time the covered offender reports to a police station, the
11 covered offender shall disclose every location where the covered
12 offender has slept in the previous month. If the new residence
13 is in another state that has a registration requirement, the
14 person shall register with the designated law enforcement agency
15 in the state to which the person moves, within the period of
16 time mandated by the new state's sex offender registration
17 laws."

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

20 "(a) A person commits the offense of failure to comply
21 with covered offender registration requirements if the person is

1 required to register under this chapter and the person
2 intentionally, knowingly, or recklessly:

3 (1) Fails to register with the attorney general by
4 providing to the attorney general or the Hawaii
5 criminal justice data center the person's registration
6 information;

7 (2) Fails to report in person to the chief of police where
8 the covered offender's residence is located, for
9 purposes of having a new photograph taken within five
10 years after the previous photograph was taken;

11 (3) Fails to register in person with the chief of police
12 having jurisdiction of the area where the covered
13 offender resides or is present within three working
14 days whenever the provisions of section 846E-2(e)
15 require the person to do so;

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

20 (5) Provides false registration information to the
21 attorney general, the Hawaii criminal justice data
22 center, or a chief of police;

1 (6) Signs a statement verifying that all of the
2 registration information is accurate and current when
3 any of the registration information is not
4 substantially accurate and current; ~~[or]~~

5 (7) Having failed to establish a new residence within the
6 ten days while absent from the person's registered
7 residence for ten or more days:

8 (A) Fails to notify the attorney general in writing
9 within three working days that the person no
10 longer resides at the person's registered
11 residence; or

12 (B) Fails to report to a police station in the state
13 ~~[or]~~ by the ~~[first day and on the fifteenth]~~ last
14 day of every month; or

15 ~~[+7+]~~ (8) Fails to mail or deliver the periodic
16 verification of registration information form to the
17 attorney general within ten days of receipt, as
18 required by section 846E-5; provided that it shall be
19 an affirmative defense that the periodic verification
20 form mailed to the covered offender was delivered when
21 the covered offender was absent from the registered
22 address and the covered offender had previously



1 notified the Hawaii criminal justice data center that
2 the covered offender would be absent during the period
3 that the periodic verification form was delivered."

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2006.

Report Title:

Repeat Covered Offender; Definition

Description:

Amends the definition of "repeat covered offender," to expressly except conviction of multiple counts within a single charging document. Adds conviction for a covered offense, unless incarcerated, and released on probation as events requiring a covered offender to register with the attorney general. Clarifies that the attorney general must represent the State in any civil proceeding to terminate public access. (SD1)

