

PROPOSED

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 2282
H.D. 1
S.D. 1

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;



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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;



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- 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



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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. For covered offenders
10 who have never been convicted of a covered offense within the
11 State of Hawaii, the attorney general shall represent the State.
12 The court may order this termination upon proof by a
13 preponderance of the evidence that the covered offender:
14 (1) Has had no new convictions for covered offenses;
15 (2) Is very unlikely to commit a covered offense ever
16 again; and
17 (3) Public access to the covered offender's public
18 information will not assist in protecting the safety
19 of the public or any member thereof;
20 provided that a denial by the court for relief pursuant to a
21 petition under this section shall preclude the filing of another
22 petition for five years from the date of the last denial."

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

3 "(a) A covered offender required to register under this
4 chapter, who changes any of the covered offender's registration
5 information after an initial registration with the attorney
6 general, shall notify the attorney general of the new
7 registration information in writing within three working days of
8 the change. For purposes of this section, a person shall be
9 deemed to have established a new residence during any period in
10 which the person is absent from the person's registered
11 residence for ten or more days. If, at any time, a covered
12 offender required to register under this chapter is absent from
13 the person's registered residence for ten or more days and fails
14 to establish a new residence within the ten days that the
15 covered offender is absent from their registered residence, the
16 covered offender shall, in addition to notifying the attorney
17 general in writing within three working days that the covered
18 offender no longer resides at the covered offender's registered
19 residence, also report to any police station in the State by the
20 last day of every month for verification of identity by
21 photograph and finger print impression until the covered
22 offender establishes a new residence and notifies the attorney



1 general in writing of the actual address of the new residence.
 2 Each time the covered offender reports to a police station, the
 3 covered offender shall disclose every location were the covered
 4 offender has slept in the previous month. If the new residence
 5 is in another state that has a registration requirement, the
 6 person shall register with the designated law enforcement agency
 7 in the state to which the person moves, within the period of
 8 time mandated by the new state's sex offender registration
 9 laws."

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

12 "(a) A person commits the offense of failure to comply
 13 with covered offender registration requirements if the person is
 14 required to register under this chapter and the person
 15 intentionally, knowingly, or recklessly:

16 (1) Fails to register with the attorney general by
 17 providing to the attorney general or the Hawaii
 18 criminal justice data center the person's registration
 19 information;

20 (2) Fails to report in person to the chief of police where
 21 the covered offender's residence is located, for

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1 purposes of having a new photograph taken within five
2 years after the previous photograph was taken;

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

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

12 (5) Provides false registration information to the
13 attorney general, the Hawaii criminal justice data
14 center, or a chief of police;

15 (6) Signs a statement verifying that all of the
16 registration information is accurate and current when
17 any of the registration information is not
18 substantially accurate and current; [~~or~~]

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



1 (A) Fails to notify the attorney general in writing
2 within three working days that the person no
3 longer resides at the person's registered
4 residence; or

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

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

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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

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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)

