
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. This Act shall be known as the "Child and Adult
2 Protection and Safety Act of 2008."

3 SECTION 2. Chapter 707, Hawaii Revised Statutes, is
4 amended by adding to part VI two new sections to be
5 appropriately designated and to read as follows:

6 **"§707-A Electronic enticement of a child in the third**
7 **degree.** (1) Any person who knowingly uses a computer online
8 service, internet service, or any other device capable of
9 electronic data storage or transmission to solicit, lure, or
10 entice, or attempt to solicit, lure, or entice:

11 (a) A minor known by the person to be under the age of
12 eighteen years;

13 (b) Another person, in reckless disregard of the risk that
14 the other person is under the age of eighteen years,
15 and the other person is under the age of eighteen
16 years; or

17 (c) Another person who represents that person to be under
18 the age of eighteen years,



1 to engage in sexual conduct with intent to promote or facilitate
2 the commission of another covered offense, as defined in section
3 846E-1, and who agrees to meet with the minor, or with another
4 person who represents that person to be a minor under the age of
5 eighteen years, is guilty of electronic enticement of a child in
6 the third degree.

7 (2) Electronic enticement of a child in the third degree
8 is a misdemeanor.

9 (3) Each separate use of a computer online service,
10 internet service, or any other device capable of electronic data
11 storage or transmission wherein an offense described in this
12 section is committed may be charged as a separate offense.

13 (4) As used in this section, "sexual conduct" means acts
14 of sexual penetration, sexual contact, or masturbation.

15 **§707-B Indecent electronic display to a child.** (1) Any
16 person who intentionally masturbates or intentionally exposes
17 the genitals in a lewd or lascivious manner live over a computer
18 online service, internet service, or local bulletin board
19 service and who knows or should know or has reason to believe
20 that the transmission is viewed on a computer or other
21 electronic device by:



1 (a) A minor known by the person to be under the age of
2 eighteen years;

3 (b) Another person, in reckless disregard of the risk that
4 the other person is under the age of eighteen years,
5 and the other person is under the age of eighteen
6 years; or

7 (c) Another person who represents that person to be under
8 the age of eighteen years,
9 is guilty of indecent electronic display to a child.

10 (2) Indecent electronic display to a child is a class C
11 felony."

12 SECTION 3. Section 706-606.5, Hawaii Revised Statutes, is
13 amended by amending subsection (1) to read as follows:

14 "(1) Notwithstanding section 706-669 and any other law to
15 the contrary, any person convicted of murder in the second
16 degree, any class A felony, any class B felony, or any of the
17 following class C felonies: section 188-23 relating to
18 possession or use of explosives, electrofishing devices, and
19 poisonous substances in state waters; section 386-98(d) (1)
20 relating to fraud violations and penalties; section 431:10A-
21 131(b) (2) relating to insurance fraud; section 431:10C-
22 307.7(b) (2) relating to insurance fraud; section 432:1-106(b) (2)



1 relating to insurance fraud; section 432D-18.5(b)(2) relating to
2 insurance fraud; section 707-703 relating to negligent homicide
3 in the second degree; section 707-711 relating to assault in the
4 second degree; section 707-713 relating to reckless endangering
5 in the first degree; section 707-716 relating to terroristic
6 threatening in the first degree; section 707-721 relating to
7 unlawful imprisonment in the first degree; section 707-732
8 relating to sexual assault or rape in the third degree; section
9 707-752 relating to promoting child abuse in the third degree;
10 section 707-757 relating to electronic enticement of a child in
11 the second degree; section 707-B relating to indecent electronic
12 display to a child; section 707-766 relating to extortion in the
13 second degree; section 708-811 relating to burglary in the
14 second degree; section 708-821 relating to criminal property
15 damage in the second degree; section 708-831 relating to theft
16 in the first degree as amended by Act 68, Session Laws of Hawaii
17 1981; section 708-831 relating to theft in the second degree;
18 section 708-835.5 relating to theft of livestock; section 708-
19 836 relating to unauthorized control of propelled vehicle;
20 section 708-839.8 relating to identity theft in the third
21 degree; section 708-839.55 relating to unauthorized possession
22 of confidential personal information; section 708-852 relating



1 to forgery in the second degree; section 708-854 relating to
2 criminal possession of a forgery device; section 708-875
3 relating to trademark counterfeiting; section 710-1071 relating
4 to intimidating a witness; section 711-1103 relating to riot;
5 section 712-1203 relating to promoting prostitution in the
6 second degree; section 712-1221 relating to gambling in the
7 first degree; section 712-1224 relating to possession of
8 gambling records in the first degree; section 712-1243 relating
9 to promoting a dangerous drug in the third degree; section 712-
10 1247 relating to promoting a detrimental drug in the first
11 degree; section 846E-9 relating to failure to comply with
12 covered offender registration requirements; section 134-7
13 relating to ownership or possession of firearms or ammunition by
14 persons convicted of certain crimes; section 134-8 relating to
15 ownership, etc., of prohibited weapons; section 134-9 relating
16 to permits to carry, or who is convicted of attempting to commit
17 murder in the second degree, any class A felony, any class B
18 felony, or any of the class C felony offenses enumerated above
19 and who has a prior conviction or prior convictions for the
20 following felonies, including an attempt to commit the same:
21 murder, murder in the first or second degree, a class A felony,
22 a class B felony, any of the class C felony offenses enumerated



1 above, or any felony conviction of another jurisdiction, shall
2 be sentenced to a mandatory minimum period of imprisonment
3 without possibility of parole during such period as follows:

4 (a) One prior felony conviction:

5 (i) Where the instant conviction is for murder in the
6 second degree or attempted murder in the second
7 degree--ten years;

8 (ii) Where the instant conviction is for a class A
9 felony--six years, eight months;

10 (iii) Where the instant conviction is for a class B
11 felony--three years, four months;

12 (iv) Where the instant conviction is for a class C
13 felony offense enumerated above--one year, eight
14 months;

15 (b) Two prior felony convictions:

16 (i) Where the instant conviction is for murder in the
17 second degree or attempted murder in the second
18 degree--twenty years;

19 (ii) Where the instant conviction is for a class A
20 felony--thirteen years, four months;

21 (iii) Where the instant conviction is for a class B
22 felony--six years, eight months;



1 (iv) Where the instant conviction is for a class C
2 felony offense enumerated above--three years,
3 four months;

4 (c) Three or more prior felony convictions:

5 (i) Where the instant conviction is for murder in the
6 second degree or attempted murder in the second
7 degree--thirty years;

8 (ii) Where the instant conviction is for a class A
9 felony--twenty years;

10 (iii) Where the instant conviction is for a class B
11 felony--ten years;

12 (iv) Where the instant conviction is for a class C
13 felony offense enumerated above--five years."

14 SECTION 4. Section 707-751, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§707-751 Promoting child abuse in the second degree.** (1)

17 A person commits the offense of promoting child abuse in the
18 second degree if, knowing or having reason to know its character
19 and content, the person:

20 (a) Disseminates child pornography;

21 (b) Reproduces child pornography with intent to
22 disseminate;



- 1 (c) Disseminates any book, magazine, periodical, film,
2 videotape, computer disk, or any other material that
3 contains an image of child pornography; [~~e~~]
- 4 (d) Disseminates any pornographic material [~~which~~] that
5 employs, uses, or otherwise contains a minor engaging
6 in or assisting others to engage in sexual conduct[~~-~~];
7 or
- 8 (e) Possesses ten or more images of any form of child
9 pornography, and the content of at least one image
10 contains one or more of the following:
- 11 (i) A minor who is younger than the age of twelve;
12 (ii) Sadomasochistic abuse of a minor;
13 (iii) Sexual penetration of a minor; or
14 (iv) Bestiality involving a minor.
- 15 (2) As used in this section:
- 16 "Child pornography" means any pornographic visual
17 representation, including any photograph, film, video, picture,
18 or computer or computer-generated image or picture, whether made
19 or produced by electronic, mechanical, or other means, of sexual
20 conduct, if:



1 (a) The pornographic production of such visual
2 representation involves the use of a minor engaging in
3 sexual conduct; or

4 (b) The pornographic visual representation has been
5 created, adapted, or modified to appear that an
6 identifiable minor is engaging in sexual conduct.

7 "Community standards" means the standards of the State.

8 "Computer" shall have the same meaning as in section 708-
9 890.

10 "Disseminate" means to publish, sell, distribute, transmit,
11 exhibit, present material, mail, ship, or transport by any
12 means, including by computer, or to offer or agree to do the
13 same.

14 "Lascivious" means tending to incite lust, to deprave the
15 morals in respect to sexual relations, or to produce voluptuous
16 or lewd emotions in the average person, applying contemporary
17 community standards.

18 "Material" means any printed matter, visual representation,
19 or sound recording and includes, but is not limited to, books,
20 magazines, motion picture films, pamphlets, newspapers,
21 pictures, photographs, and tape or wire recordings.

22 "Minor" means any person less than eighteen years old.



1 "Pornographic" shall have the same meaning as in section
2 712-1210.

3 "Sadomasochistic abuse" means flagellation or torture by or
4 upon a person as an act of sexual stimulation or gratification.

5 "Sexual conduct" means acts of masturbation, homosexuality,
6 lesbianism, bestiality, sexual penetration, deviate sexual
7 intercourse, sadomasochistic abuse, or lascivious exhibition of
8 the genital or pubic area of a minor.

9 "Visual representation" refers to, but is not limited to,
10 undeveloped film and videotape, and data stored on computer disk
11 or by electronic means that are capable of conversion into a
12 visual image.

13 (3) The fact that a person engaged in the conduct
14 specified by this section is prima facie evidence that the
15 person engaged in that conduct with knowledge of the character
16 and content of the material. The fact that the person who was
17 employed, used, or otherwise contained in the pornographic
18 material was at that time, a minor, is prima facie evidence that
19 the defendant knew the person to be a minor.

20 (4) Promoting child abuse in the second degree is a class
21 B felony.



1 (5) Notwithstanding any law to the contrary, a person
2 convicted of promoting child abuse in the second degree shall be
3 sentenced to an indeterminate term of imprisonment as provided
4 by law with a mandatory minimum term of imprisonment of five
5 years, unless a greater mandatory minimum term is authorized by
6 law."

7 SECTION 5. Section 707-752, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**[+]§707-752[+]** **Promoting child abuse in the third**
10 **degree.** (1) A person commits the offense of promoting child
11 abuse in the third degree if, knowing or having reason to know
12 its character and content, the person possesses:

13 (a) Child pornography;

14 (b) Any book, magazine, periodical, film, videotape,
15 computer disk, electronically stored data, or any
16 other material that contains an image of child
17 pornography; or

18 (c) Any pornographic material that employs, uses, or
19 otherwise contains a minor engaging in or assisting
20 others to engage in sexual conduct.

21 (2) As used in this section:



1 "Child pornography" means any pornographic visual
2 representation, including any photograph, film, video, picture,
3 or computer or computer-generated image or picture, whether made
4 or produced by electronic, mechanical, or other means, of sexual
5 conduct, if:

6 (a) The pornographic production of the visual
7 representation involves the use of a minor engaging in
8 sexual conduct; or

9 (b) The pornographic visual representation has been
10 created, adapted, or modified to appear that an
11 identifiable minor is engaging in sexual conduct.

12 "Community standards" means the standards of the State.

13 "Computer" shall have the same meaning as in section 708-
14 890.

15 "Lascivious" means tending to incite lust, to deprave the
16 morals with respect to sexual relations, or to produce
17 voluptuous or lewd emotions in the average person, applying
18 contemporary community standards.

19 "Material" means any printed matter, visual representation,
20 or sound recording and includes, but is not limited to, books,
21 magazines, motion picture films, pamphlets, newspapers,
22 pictures, photographs, and tape or wire recordings.



1 "Minor" means any person less than eighteen years old.

2 "Pornographic" shall have the same meaning as in section
3 712-1210.

4 "Sadomasochistic abuse" means flagellation or torture by or
5 upon a person as an act of sexual stimulation or gratification.

6 "Sexual conduct" means acts of masturbation, homosexuality,
7 lesbianism, bestiality, sexual penetration, deviate sexual
8 intercourse, sadomasochistic abuse, or lascivious exhibition of
9 the genital or pubic area of a minor.

10 "Visual representation" includes but is not limited to
11 undeveloped film and videotape and data stored on computer disk
12 or by electronic means that are capable of conversion into a
13 visual image.

14 (3) The fact that a person engaged in the conduct
15 specified by this section is prima facie evidence that the
16 person engaged in that conduct with knowledge of the character
17 and content of the material. The fact that the person who was
18 employed, used, or otherwise contained in the pornographic
19 material was, at that time, a minor is prima facie evidence that
20 the defendant knew the person to be a minor.

21 (4) Promoting child abuse in the third degree is a class C
22 felony.



1 (5) Notwithstanding any law to the contrary, if a person
2 convicted of promoting child abuse in the third degree is
3 sentenced to probation rather than an indeterminate term of
4 imprisonment, the terms and conditions of probation shall
5 include, but not be limited to, a term of imprisonment of one
6 year."

7 SECTION 6. Section 707-756, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§707-756 Electronic enticement of a child in the first**
10 **degree.** (1) Any person who, using a computer or any other
11 electronic device:

12 (a) Intentionally or knowingly communicates:

13 (i) With a minor known by the person to be under the
14 age of eighteen years;

15 (ii) With another person, in reckless disregard of the
16 risk that the other person is under the age of
17 eighteen years, and the other person is under the
18 age of eighteen years; or

19 (iii) With another person who represents that person to
20 be under the age of eighteen years; and

21 (b) With the intent to promote or facilitate the
22 commission of a felony:



- 1 (i) That is a murder in the first or second degree;
2 (ii) That is a class A felony; or
3 (iii) That is ~~[an]~~ another covered offense as defined
4 in section 846E-1[+],
5 agrees to meet with the minor, or with another person
6 who represents that person to be a minor under the age
7 of eighteen years; and
8 (c) Intentionally or knowingly travels to the agreed upon
9 meeting place at the agreed upon meeting time[+],

10 is guilty of electronic enticement of a child in the first
11 degree.

12 (2) Electronic enticement of a child in the first degree
13 is a class B felony. Notwithstanding any law to the contrary,
14 ~~[if a person sentenced under this section is sentenced to~~
15 ~~probation rather than]~~ a person convicted of electronic
16 enticement of a child in the first degree shall be sentenced to
17 an indeterminate term of imprisonment~~[, the terms and conditions~~
18 ~~of probation shall include, but not be limited to, a term of~~
19 ~~imprisonment of one year.]~~ as provided by law."

20 SECTION 7. Section 707-757, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§707-757 **Electronic enticement of a child in the second**
2 **degree.** (1) Any person who, using a computer or any other
3 electronic device:

- 4 (a) Intentionally or knowingly communicates:
- 5 (i) With a minor known by the person to be under the
6 age of eighteen years;
- 7 (ii) With another person, in reckless disregard of the
8 risk that the other person is under the age of
9 eighteen years, and the other person is under the
10 age of eighteen years; or
- 11 (iii) With another person who represents that person to
12 be under the age of eighteen years; and
- 13 (b) With the intent to promote or facilitate the
14 commission of a felony[7] or another covered offense
15 as defined in section 846E-1, agrees to meet with the
16 minor, or with another person who represents that
17 person to be a minor under the age of eighteen years;
18 and
- 19 (c) Intentionally or knowingly travels to the agreed upon
20 meeting place at the agreed upon meeting time;
- 21 is guilty of electronic enticement of a child in the second
22 degree.



1 (2) Electronic enticement of a child in the second degree
2 is a class C felony. Notwithstanding any law to the contrary,
3 if a person sentenced under this section is sentenced to
4 probation rather than an indeterminate term of imprisonment, the
5 terms and conditions of probation shall include, but not be
6 limited to, a term of imprisonment of one year."

7 SECTION 8. Section 846E-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new definition to be appropriately inserted
10 and to read as follows:

11 "Clean record" means no conviction for a felony or covered
12 offense, if placed on probation or parole, completion of
13 probation or parole without more than one revocation, and, for
14 sex offenders, successful completion of an appropriate sex
15 offender treatment program, if such program was ordered."

16 2. By amending the definitions of "crime against minors",
17 "registration information", and "sexual offense" to read as
18 follows:

19 ""Crime against minors"[7] excludes "sexual offenses" as
20 defined in this section and means a criminal offense that
21 consists of:



- 1 (1) Kidnapping of a minor, [~~except~~] by someone other than
2 a parent;
- 3 (2) Unlawful imprisonment in the first or second degree
4 that involves the unlawful imprisonment of a minor[~~7~~
5 ~~except~~] by someone other than a parent;
- 6 (3) An act, as described in chapter 705, that is an
7 attempt, criminal solicitation, or criminal conspiracy
8 to commit one of the offenses designated in paragraph
9 (1) or (2); or
- 10 (4) A criminal offense that is comparable to or which
11 exceeds one of the offenses designated in paragraphs
12 (1) through (3) or any federal, military, or out-of-
13 state conviction for any offense that, under the laws
14 of this State would be a crime against minors as
15 designated in paragraphs (1) through (3).

16 "Registration information" means the information specified
17 in section [~~846E-2(e)~~]. 846E-2(d) and (e)."

18 "Sexual offense" means an offense that is:

- 19 (1) Set forth in section 707-730(1)(a), 707-730(1)(b),
20 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a),
21 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-
22 732(2)(b), 707-732(1)(c), 707-732(1)(d), 707-



1 732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6,
2 [~~e~~] 712-1202(1)(b), or 712-1203(1)(b), but excludes
3 conduct that is criminal only because of the age of
4 the victim, as provided in section 707-730(1)(b), or
5 section 707-732(1)(b) if the perpetrator is under the
6 age of eighteen;

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

11 (3) An act that consists of:

12 (A) Criminal sexual conduct toward a minor[+],
13 including but not limited to an offense set forth
14 in section 707-B;

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

17 (C) Use of a minor in a sexual performance;

18 (D) Production, distribution, or possession of child
19 pornography chargeable as a felony under section
20 707-750, 707-751, or 707-752;



- 1 (E) Electronic enticement of a child chargeable [~~as a~~
2 ~~felony~~] under section 707-756 [~~or~~], 707-757, or
3 707-A, if the [~~act involves~~
4 ~~(i) Sexual conduct,~~
5 ~~(ii) Attempted sexual conduct, or~~
6 ~~(iii) A proposal to engage in sexual conduct,~~
7 offense was committed with the intent to promote
8 or facilitate the commission of another covered
9 offense as defined in section 846E-1; or
- 10 (F) Solicitation of a minor to practice prostitution;
- 11 (4) A criminal offense that is comparable to or that
12 exceeds a sexual offense as defined in paragraphs (1)
13 through (3) or any federal, military, or out-of-state
14 conviction for any offense that under the laws of this
15 State would be a sexual offense as defined in
16 paragraphs (1) through (3); or
- 17 (5) An act, as described in chapter 705, that is an
18 attempt, criminal solicitation, or criminal conspiracy
19 to commit one of the offenses designated in paragraphs
20 (1) through (4)."



1 3. By repealing the definitions of "aggravated sex
2 offender," "aggravated sexual offense" and "sexually violent
3 predator".

4 ~~["Aggravated sex offender" means:~~

5 ~~(1) A person convicted of an "aggravated sexual offense"~~
6 ~~as defined in this section, or~~

7 ~~(2) A person who is charged with an "aggravated sexual~~
8 ~~offense" as defined in this section and found unfit to~~
9 ~~proceed and is released into the community or~~
10 ~~acquitted due to a physical or mental disease,~~
11 ~~disorder, or defect pursuant to chapter 704 and is~~
12 ~~released into the community.~~

13 ~~"Aggravated sexual offense" means:~~

14 ~~(1) A criminal offense described in section 707-730(1)(a),~~
15 ~~707-730(1)(b), 707-731(1)(b), 707-732(1)(b),~~
16 ~~707-732(1)(f), and 707-733.6, but excludes conduct~~
17 ~~that is criminal only because of the age of the~~
18 ~~victim, if the perpetrator is under the age of~~
19 ~~eighteen;~~

20 ~~(2) A criminal offense that is comparable to one of the~~
21 ~~offenses designated in paragraph (1) or any federal,~~
22 ~~military, or out-of-state offense that, under the laws~~



1 ~~of this State would be an aggravated sexual offense as~~
2 ~~designated in paragraph (1), or~~

3 ~~(3) An act, as described in chapter 705, that is an~~
4 ~~attempt, criminal solicitation, or criminal conspiracy~~
5 ~~to commit one of the offenses designated in paragraphs~~
6 ~~(1) or (2).~~

7 ~~"Sexually violent predator" means a person:~~

8 ~~(1) Who is a sex offender; and~~

9 ~~(2) Who suffers from a mental abnormality or personality~~
10 ~~disorder that makes the person likely to engage in~~
11 ~~predatory sexual offenses."]~~

12 SECTION 9. Section 846E-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§846E-2 Registration requirements.** (a) A covered
15 offender shall register with the attorney general and comply
16 with the provisions of this chapter for life or for a shorter
17 period of time as provided in this chapter. A covered offender
18 ~~[who is not:~~

19 ~~(1) An aggravated sex offender;~~

20 ~~(2) A repeat covered offender; and~~

21 ~~(3) A sexually violent predator,]~~



1 shall be eligible to petition the court in a civil proceeding
2 for an order that the covered offender's registration
3 requirements under this chapter be terminated, as provided in
4 section 846E-10.

5 (b) A person who establishes or maintains a residence in
6 this State and who has not been designated as a covered offender
7 by a court of this State but who has been designated as a
8 covered offender, sex offender, offender against minors, repeat
9 covered offender, sexually violent predator, or any other sexual
10 offender designation in another state or jurisdiction and was,
11 as a result of such designation, subjected to registration or
12 community or public notification, or both, or would be if the
13 person was a resident of that state or jurisdiction, without
14 regard to whether the person otherwise meets the criteria for
15 registration as a covered offender, shall register in the manner
16 provided in this section and shall be subject to community and
17 public notification as provided in section 846E-3. A person who
18 meets the criteria of this subsection is subject to the
19 requirements and penalty provisions of section 846E-9 until the
20 person petitions the attorney general for termination of
21 registration requirements by:



1 (1) Providing an order issued by the court that designated
2 the person as a covered offender, sex offender,
3 offender against minors, repeat covered offender,
4 sexually violent predator, or any other sexual
5 offender designation in the state or jurisdiction in
6 which the order was issued, that states that the
7 designation has been removed or demonstrates to the
8 attorney general that the designation, if not imposed
9 by a court, has been removed by operation of law or
10 court order in the state or jurisdiction in which the
11 designation was made, and the person does not meet the
12 criteria for registration as a covered offender under
13 the laws of this State; or

14 (2) Demonstrating that the out-of-state convictions upon
15 which the sexual offender designation was established
16 are not covered offenses under section 846E-1, thereby
17 showing that the person does not meet the criteria for
18 registration as a covered offender under the laws of
19 this State.

20 If the covered offender is not satisfied with the decision of
21 the attorney general on the request for termination of



1 registration requirements, the covered offender may appeal the
2 decision pursuant to chapter 91.

3 ~~[(b)]~~ (c) Each provision of this chapter applicable to sex
4 offenders shall also be applicable to offenders against minors,
5 unless offenders against minors are specifically excluded.

6 Whenever a covered offender's public information is made
7 publicly accessible, separate registries shall be maintained
8 for:

- 9 (1) Sex offenders; and
10 (2) Offenders against minors.

11 ~~[(e)]~~ (d) Registration information for each covered
12 offender shall ~~[consist of a recent photograph, verified~~
13 ~~fingerprints, and]~~ include a signed statement by the covered
14 offender containing:

- 15 (1) The name, all prior names, nicknames and pseudonyms,
16 and all aliases used by the covered offender or under
17 which the covered offender has been known and other
18 identifying information, including date of birth~~[7]~~
19 and any alias date of birth, social security number~~[7]~~
20 and any alias social security number, sex, race,
21 height, weight, and hair and eye color;



- 1 (2) The actual address and telephone number of the covered
2 offender's residence [~~or mailing address,~~] or any
3 current, temporary address where the covered offender
4 resides, or if an address is not available, a
5 description of the place or area in which the covered
6 offender resides for at least thirty nonconsecutive
7 days within a sixty-day period, and for each address
8 or place where the covered offender resides, how long
9 the covered offender has resided there;
- 10 (3) The actual address or description of the place or
11 area, the actual length of time of the stay, and
12 telephone number where the covered offender is staying
13 for a period of seven or more [~~than ten~~] days, if
14 other than the stated residence;
- 15 (4) If known, the future address and telephone number
16 where the covered offender is planning to reside, if
17 other than the stated residence;
- 18 (5) Any electronic mail address, any instant message name,
19 any internet designation or moniker, and any internet
20 address used for routing or self-identification;



- 1 (6) Any cell phone number and other designations used for
2 routing or self-identification in telephonic
3 communications;
- 4 [~~+5~~] (7) Names and, if known, actual business addresses of
5 current and known future employers, including
6 information for any place where the covered offender
7 works as a volunteer or otherwise works without
8 remuneration, and the starting and ending dates of any
9 such employment;
- 10 (8) For covered offenders who may not have a fixed place
11 of employment, a description of the places where such
12 a covered offender works, such as information about
13 normal travel routes or the general area or areas in
14 which the covered offender works;
- 15 (9) Professional licenses held by the covered offender;
- 16 [~~+6~~] (10) Names and actual addresses of current and known
17 future educational institutions with which the covered
18 offender is affiliated in any way, whether or not
19 compensated, including but not limited to affiliation
20 as a faculty member, an employee, or a student, and
21 the starting and ending dates of any such affiliation;



- 1 ~~(7)~~ (11) The year, make, model, color, and license or
2 registration or other identifying number of all
3 vehicles, including automobiles, watercrafts, and
4 aircrafts, currently owned or operated by the covered
5 offender~~(7)~~ and the address or description of the
6 place or places where the covered offender's vehicle
7 or vehicles are habitually parked, docked, or
8 otherwise kept;
- 9 (12) Passports and information about the passports, if the
10 covered offender has passports, and documents
11 establishing immigration status and information about
12 these documents, if the covered offender is an alien;
- 13 ~~(8)~~ (13) A statement listing all covered offenses for
14 which the covered offender has been convicted or found
15 unfit to proceed or acquitted pursuant to chapter 704;
- 16 ~~(9)~~ (14) A statement indicating whether the covered
17 offender has received or is currently receiving
18 treatment ordered by a court of competent jurisdiction
19 or by the Hawaii paroling authority;
- 20 ~~(10)~~ (15) A statement indicating whether the covered
21 offender is a United States citizen; and



1 ~~[(11)]~~ (16) Any additional identifying information about the
2 covered offender.

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

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

6 (2) A physical description of the covered offender,
7 including a description of particular identifying
8 characteristics such as scars or tattoos;

9 (3) Confirmation that the covered offender has provided
10 digitized fingerprints and palm prints of the covered
11 offender;

12 (4) The judgment of conviction, judgment of acquittal, or
13 judicial determination of unfitness to proceed
14 documenting the criminal offense or offenses for which
15 the covered offender is registered;

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

19 (6) The criminal history of the covered offender, or an
20 electronic link to the criminal history, including the
21 date of all arrests and convictions; the status of
22 parole, probation, or supervised release; registration



- 1 status; and the existence of any outstanding arrest
2 warrants for the covered offender;
- 3 (7) Confirmation that the covered offender has provided a
4 DNA buccal swab sample as required by chapter 844D;
- 5 (8) Digitized copies of a valid driver's license or
6 identification card issued to the covered offender, or
7 an electronic link to those records; and
- 8 (9) Digitized copies of passports and documents
9 establishing immigration status, or an electronic link
10 to those records.

11 [~~(d)~~] (f) Whenever a covered offender provides
12 registration information, during initial registration as a
13 covered offender or when providing notice of a change in
14 registration information, the covered offender also shall sign a
15 statement verifying that all of the registration information is
16 accurate and current.

17 [~~(e)~~] (g) In addition to the requirement under subsection
18 (a) to register with the attorney general and comply with the
19 provisions of this chapter until a court relieves the covered
20 offender of the registration requirements of this chapter, each
21 covered offender shall also register in person with the chief of
22 police where the covered offender resides or is present.



1 Registration under this subsection is for the purpose of
2 providing the covered offender's photograph, fingerprints, and
3 registration information. Registration under this subsection is
4 required whenever the covered offender, whether or not a
5 resident of this State, remains in this State for more than
6 [~~ten~~] seven days or for an aggregate period exceeding thirty
7 days in one calendar year. Covered offenders required to
8 register in person with the chief of police under this
9 subsection shall register no later than three working days after
10 the earliest of:

- 11 (1) Arrival in this State;
- 12 (2) Release from incarceration;
- 13 (3) Release from commitment;
- 14 (4) Release on furlough;
- 15 (5) Conviction for a covered offense, unless incarcerated;
- 16 (6) Release on probation;
- 17 (7) Placement on parole; or
- 18 (8) Arrival in a county in which the covered offender
19 resides or expects to be present for a period
20 exceeding [~~ten~~] seven days.

21 In addition to any other requirement to register under this
22 subsection or subsection (a), each covered offender shall report



1 in person every five years until June 30, 2009, and beginning on
2 July 1, 2009, every year, within the thirty-day period following
3 the offender's date of birth, to the chief of police where the
4 covered offender resides ~~{for purposes of having a new~~
5 ~~photograph taken.}~~, or to such other department or agency that
6 may be designated by the attorney general in rules adopted
7 pursuant to chapter 91 for purposes of the administration of
8 this subsection, and shall review the existing information in
9 the registry that is within the offender's knowledge, correct
10 any information that has changed or is inaccurate, provide any
11 new information that may be required, and allow the police and
12 such other department or agency designated by the attorney
13 general to take a current photograph of the offender.

14 ~~{+}~~ (h) The registration provisions of this section
15 shall apply to all covered offenders without regard to:

- 16 (1) The date of the covered offender's conviction;
17 (2) The date of finding, pursuant to chapter 704, of the
18 covered offender's unfitness to proceed; or
19 (3) The date of the covered offender's acquittal due to
20 mental disease, disorder, or defect, pursuant to
21 chapter 704."



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

3 "**§846E-3 Access to registration information.** (a)

4 Registration information shall be disclosed as follows:

5 (1) The information shall be disclosed to law enforcement
6 agencies for law enforcement purposes;

7 (2) The information shall be disclosed to government
8 agencies conducting confidential background checks;

9 (3) The attorney general and any county police department
10 shall release public information as provided in
11 subsection (b) concerning a specific person required
12 to register under this chapter; provided that the
13 identity of a victim of an offense that requires
14 registration under this chapter shall not be released.

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

16 means:

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

20 (2) The year of the covered offender's date of birth and
21 the year of the covered offender's alias dates of
22 birth;



- 1 (3) A physical description of the covered offender,
2 including a description of particular identifying
3 characteristics such as scars or tattoos;
- 4 [~~2~~] (4) The actual address where the covered offender
5 resides [~~and~~] or any current, temporary address where
6 the covered offender resides or, if an address is not
7 available, a description of any place or area in which
8 the covered offender resides for at least thirty
9 nonconsecutive days within a sixty-day period, and,
10 for each address or place where the covered offender
11 resides, how long the covered offender has resided
12 there;
- 13 [~~3~~] (5) The actual address or description of the place or
14 area where the covered offender is staying for more
15 than [~~ten~~] seven days, if other than the stated
16 residence[+], and the actual length of time of the
17 stay;
- 18 [~~4~~] (6) The future actual address, if known, where the
19 covered offender is planning to reside, if other than
20 the stated residence;
- 21 [~~5~~] (7) The street name and zip code of the covered
22 offender's current locations of employment[+],



1 including information for any place where the covered
2 offender works as a volunteer or otherwise works
3 without remuneration;

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

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

10 ~~[(6)]~~ (10) Names and actual addresses of current and known
11 future educational institutions with which the covered
12 offender is affiliated as a faculty member, an
13 employee, or a student, and the starting and ending
14 dates of any such affiliation;

15 ~~[(7)]~~ (11) The year, make, model, color, and license number
16 of all vehicles, including automobiles, watercrafts,
17 and aircrafts, currently owned or operated by the
18 covered offender, [~~excluding vehicles operated~~
19 ~~exclusively for purposes of work,~~] and the address or
20 description of the place or places where the covered
21 offender's vehicle or vehicles are habitually parked,
22 docked, or otherwise kept;



1 ~~(8)~~ (12) A statement listing all covered offenses for
2 which the covered offender has been convicted or found
3 unfit to proceed or acquitted pursuant to chapter 704;
4 ~~and~~

5 (13) An electronic link to the public criminal conviction
6 history of the covered offender;

7 (14) The judgment of conviction, judgment of acquittal, or
8 judicial determination of unfitness to proceed
9 documenting the criminal offense or offenses for which
10 the covered offender is registered;

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

14 ~~(9)~~ (16) A recent photograph of the covered offender.

15 The identity of any victim of a sexual offense shall not be
16 disclosed, and any documentation containing identity information
17 shall be redacted to prevent disclosure.

18 (c) To facilitate community notification, after a covered
19 offender registers or updates a registration, the attorney
20 general may provide public information in the registry about
21 that offender to any organization, company, or individual who
22 requests such notification pursuant to procedures established by



1 the attorney general through rules adopted pursuant to chapter
2 91.

3 (d) A covered offender may seek correction of erroneous
4 public information by petitioning the attorney general to make
5 the correction. If the covered offender is not satisfied with
6 the decision of the attorney general on the request for
7 correction, the covered offender may appeal the decision
8 pursuant to chapter 91.

9 ~~[(e)]~~ (e) Public access to a covered offender's public
10 information shall be permitted with regard to each covered
11 offender beginning the next working day following the filing of
12 a judgment of conviction, a finding of unfitness to proceed or
13 an acquittal due to mental disease, disorder, or defect, for a
14 covered offense, or as soon thereafter as is practical. When a
15 notice of appeal has been filed, the public information shall
16 note that the covered offender has filed a notice of appeal.
17 The public information shall be removed upon the reversal of the
18 covered offender's conviction or the granting of a pardon to the
19 covered offender. ~~[Public access shall continue until the~~
20 ~~expiration of at least the following periods:~~

21 ~~(1) Forty years after sentencing or release, whichever is~~
22 ~~later, of a sexually violent predator or a repeat~~



1 ~~covered offender with at least two separate~~
2 ~~convictions for a crime for which this chapter~~
3 ~~requires registration, one of which is a felony;~~
4 ~~(2) Thirty years after sentencing or release, whichever is~~
5 ~~later, of any covered offender who has been convicted~~
6 ~~of an aggravated sexual offense;~~
7 ~~(3) Twenty five years after sentencing or release,~~
8 ~~whichever is later, of any covered offender who is not~~
9 ~~subject to paragraph (1) or (2), and whose most~~
10 ~~serious covered offense conviction, except for a~~
11 ~~conviction under section 707-730(1)(c), is a class A~~
12 ~~felony or its non-Hawaii equivalent;~~
13 ~~(4) Fifteen years after a covered offender's date of~~
14 ~~sentencing or release, whichever is later, for those~~
15 ~~covered offenders who are not subject to paragraphs~~
16 ~~(1) through (3) and whose most serious covered offense~~
17 ~~conviction is a class B felony, or a conviction under~~
18 ~~section 707-730(1)(c), or its non-Hawaii equivalent;~~
19 ~~or~~
20 ~~(5) Ten years after a covered offender's date of~~
21 ~~sentencing or release, whichever is later, for those~~



1 ~~covered offenders who are not subject to paragraphs~~
2 ~~(1) through (4) and:~~
3 ~~(A) Whose most serious covered offense conviction is~~
4 ~~a class C felony or its non-Hawaii equivalent; or~~
5 ~~(B) Have been convicted of a second or subsequent~~
6 ~~misdemeanor covered offense when all of the~~
7 ~~previous covered offenses are also misdemeanors.~~

8 ~~(d)]~~ (f) Public access authorized by this section ~~[shall~~
9 ~~be accomplished by the following methods:~~

10 ~~(1) Public access to the public information for each~~
11 ~~covered offender subject to subsection (c), paragraphs~~
12 ~~(1) through (4)] shall be provided by both public~~
13 ~~internet access and on-site public access [or~~
14 ~~(2) Public access to the public information for each~~
15 ~~covered offender subject to subsection (c), paragraph~~
16 ~~(5) shall be provided by on-site public access];~~

17 provided that on-site public access shall be provided for each
18 covered offender at the Hawaii criminal justice data center and
19 at one or more designated police stations in each county, to be
20 designated by the attorney general, between the hours of 8:00
21 a.m. and 4:30 p.m. on weekdays, excluding holidays.



1 ~~[(e) After]~~ (g) Public access to the public information
2 for each covered offender shall be permitted while the covered
3 offender is subject to sex offender registration, except that
4 after forty years have elapsed after release or sentencing,
5 whichever is later, ~~[for covered offenders subject to subsection~~
6 ~~(e), paragraph (1); thirty years have elapsed after release or~~
7 ~~sentencing, whichever is later, for covered offenders subject to~~
8 ~~subsection (e), paragraph (2); twenty-five years have elapsed~~
9 ~~after release or sentencing, whichever is later, for covered~~
10 ~~offenders subject to subsection (e), paragraph (3); fifteen~~
11 ~~years have elapsed after release or sentencing, whichever is~~
12 ~~later for covered offenders subject to subsection (e), paragraph~~
13 ~~(4); and ten years have elapsed after release or sentencing,~~
14 ~~whichever is later, for covered offenders subject to subsection~~
15 ~~(e), paragraph (5),]~~ a covered offender may petition the court
16 in a civil proceeding to terminate public access. In the civil
17 proceeding to terminate public access, the State shall be
18 represented by the attorney general; provided that the attorney
19 general, with the prosecuting agency's consent, may designate
20 the prosecuting agency that prosecuted the covered offender for
21 the most recent covered offense within the State to represent
22 the State. For covered offenders who have never been convicted



1 of a covered offense within the State of Hawaii, the attorney
2 general shall represent the State; provided that the attorney
3 general, with the prosecuting agency's consent, may designate
4 the prosecuting agency for the county in which the covered
5 offender resides to represent the State. The court may order
6 this termination upon proof by [~~a preponderance of the~~] clear
7 and convincing evidence that [~~the covered offender~~]:

- 8 (1) [~~Has~~] The covered offender has had no new convictions
9 for covered offenses;
- 10 (2) [~~Is~~] The covered offender is very unlikely to commit a
11 covered offense ever again; and
- 12 (3) Public access to the covered offender's public
13 information will not assist in protecting the safety
14 of the public or any member thereof;

15 provided that a denial by the court for relief pursuant to a
16 petition under this section shall preclude the filing of another
17 petition for five years from the date of the last denial.

18 [~~(f)~~] (h) If a covered offender has been convicted of only
19 one covered offense and that covered offense is a misdemeanor,
20 the covered offender shall not be subject to the public access
21 requirements set forth in this section.



1 [~~g~~] (i) The following message shall be posted at both
2 the site of internet access and on-site public access locations:

3 "Information regarding covered offenders is permitted
4 pursuant to chapter 846E. Public access to this
5 information is based solely on the fact of each offender's
6 criminal conviction and is not based on an estimate of the
7 offender's level of dangerousness. By allowing public
8 access to this information, the State makes no
9 representation as to whether the covered offenders listed
10 are dangerous. Any person who uses the information in this
11 registry to injure, harass, or commit a criminal act
12 against any person included in the registry may be subject
13 to criminal prosecution, civil liability, or both."

14 [~~h~~] (j) The public access provisions of this section
15 shall apply to all covered offenders without regard to the date
16 of conviction.

17 [~~i~~] (k) "Conviction" as used in this section means:

18 (1) A judgment on the verdict, or a finding of guilt after
19 a plea of [~~+~~]guilty[~~+~~] or nolo contendere, excluding
20 the adjudication of a minor;



- 1 (2) A finding of unfitness to proceed resulting in the
2 release of the covered offender into the community,
3 excluding such a finding as to a minor; or
- 4 (3) An acquittal due to a physical or mental disease,
5 disorder, or defect pursuant to chapter 704 resulting
6 in the release of the covered offender into the
7 community, excluding such acquittal as to a minor."

8 SECTION 11. Section 846E-4, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) The chief of police shall transmit any covered
11 offender registration information required by this chapter to
12 the attorney general, by entering the information into a
13 statewide record system, if the information has not previously
14 been entered into the system, and also shall provide the
15 attorney general with a photograph and fingerprints of the
16 covered offender, taken at the time the covered offender
17 registers with the chief of police. The covered offender shall
18 report in person every five years until June 30, 2009, and
19 beginning on July 1, 2009, every year, within the thirty-day
20 period following the offender's date of birth, to the chief of
21 police where the covered offender's residence is located [~~for~~
22 ~~purposes of having a new photograph taken.~~], or to other



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

10 SECTION 12. Section 846E-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§846E-9 Failure to comply with covered offender**
13 **registration requirements.** (a) A person commits the offense of
14 failure to comply with covered offender registration
15 requirements if the person is required to register under this
16 chapter and the person intentionally, knowingly, or recklessly:

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

21 (2) Fails to report in person every five years until June
22 30, 2009, and beginning on July 1, 2009, once every



1 year, during the thirty-day period following the
2 offender's date of birth, to the chief of police where
3 the covered offender's residence is [~~located, for~~
4 ~~purposes of having a new photograph taken within five~~
5 ~~years after the previous photograph was taken;~~]
6 located, or to such other department or agency
7 designated by the attorney general;

8 (3) While reporting to the chief of police or other
9 department or agency designated by the attorney
10 general, fails to correct any information in the
11 registry within the offender's knowledge that has
12 changed or is inaccurate;

13 (4) While reporting to the chief of police or other
14 department or agency designated by the attorney
15 general, fails to provide any new information that may
16 be required;

17 (5) While reporting to the chief of police or other
18 department or agency designated by the attorney
19 general, does not allow the police or other designated
20 department or agency to take a current photograph of
21 the person;



- 1 ~~(3)~~ (6) Fails to register in person with the chief of
2 police having jurisdiction of the area where the
3 covered offender resides or is present within three
4 working days whenever the provisions of section
5 846E-2(e) require the person to do so;
- 6 ~~(4)~~ (7) Fails to notify the attorney general or the
7 Hawaii criminal justice data center of a change of any
8 of the covered offender's registration information in
9 writing within three working days of the change;
- 10 ~~(5)~~ (8) Provides false registration information to the
11 attorney general, the Hawaii criminal justice data
12 center, or a chief of police;
- 13 ~~(6)~~ (9) Signs a statement verifying that all of the
14 registration information is accurate and current when
15 any of the registration information is not
16 substantially accurate and current;
- 17 ~~(7)~~ (10) Having failed to establish a new residence
18 within the ten days while absent from the person's
19 registered residence for ten or more days:
- 20 (A) Fails to notify the attorney general in writing
21 within three working days that the person no



1 longer resides at the person's registered
2 residence; or
3 (B) Fails to report to a police station in the State
4 by the last day of every month; or
5 ~~[(8)]~~ (11) Fails to mail or deliver the periodic
6 verification of registration information form to the
7 attorney general within ten days of receipt, as
8 required by section 846E-5; provided that it shall be
9 an affirmative defense that the periodic verification
10 form mailed to the covered offender was delivered when
11 the covered offender was absent from the registered
12 address and the covered offender had previously
13 notified the Hawaii criminal justice data center that
14 the covered offender would be absent during the period
15 that the periodic verification form was delivered.

16 (b) ~~[Any person required to register under this chapter~~
17 ~~who intentionally or knowingly violates subsection (a) shall be~~
18 ~~guilty of]~~ Failure to comply with covered offender registration
19 requirements is a class C felony.

20 ~~[(c) Any person required to register under this chapter~~
21 ~~who recklessly violates subsection (a) shall be guilty of a~~
22 ~~misdemeanor.~~



1 ~~(d) For any second or subsequent offense, any person~~
2 ~~required to register under this chapter who intentionally,~~
3 ~~knowingly, or recklessly violates subsection (a) shall be guilty~~
4 ~~of a class C felony.] "~~

5 SECTION 13. Section 846E-10, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[†]~~**S846E-10**~~[‡]~~ Termination of registration requirements.

8 (a) Tier 3 offenses. A covered offender whose ~~[most serious~~
9 ~~covered offense is a class A felony or its non-Hawaii~~
10 ~~equivalent, who has substantially complied with the registration~~
11 ~~requirements of this chapter for the previous twenty-five years,~~
12 ~~who is not a sexually violent predator, who is not an aggravated~~
13 ~~sex offender, and who is not a repeat covered offender, may~~
14 ~~petition the court, in a civil proceeding, for termination of~~
15 ~~registration requirements on the ground that registration is no~~
16 ~~longer necessary for the protection of the public.] covered~~
17 ~~offense is any of the following offenses shall register for life~~
18 ~~and, except as provided in subsection (e), may not petition the~~
19 ~~court, in a civil proceeding, for termination of registration~~
20 ~~requirements:~~



1 (1) Any offense set forth in section 707-730(1)(a), (b),
2 (d), or (e), 707-731(1)(a) or (b), 707-732(1)(a), (b),
3 or (f), or 707-733.6;

4 (2) An offense set forth in section 707-720, provided that
5 the offense involves kidnapping of a minor by someone
6 other than a parent;

7 (3) An offense that is an attempt, criminal solicitation,
8 or criminal conspiracy to commit any of the offenses
9 in paragraph (1) or (2);

10 (4) Any criminal offense that is comparable to one of the
11 offenses in paragraph (1), (2), or (3); or

12 (5) Any federal, military, or out-of-state offense that is
13 comparable to one of the offenses in paragraph (1),
14 (2), or (3).

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

19 ~~[(b)]~~ (c) Tier 2 offenses. A covered offender ~~[whose most~~
20 ~~serious covered offense is a class B felony or its non-Hawaii~~
21 ~~equivalent,~~] who has maintained a clean record for the previous
22 twenty-five years, excluding any time the offender was in



1 custody or civilly committed, and who has substantially complied
2 with the registration requirements of this chapter for the
3 previous [~~fifteen~~] twenty-five years, or for the portion of that
4 twenty-five years that this chapter has been applicable, and who
5 is not [~~a sexually violent predator, who is not an aggravated~~
6 ~~sex offender, and who is not~~] a repeat covered offender[7] may
7 petition the court, in a civil proceeding, for termination of
8 registration requirements [~~on the ground that registration is no~~
9 ~~longer necessary for the protection of the public.]; provided~~
10 that the covered offender's most serious covered offense is one
11 of the following:

- 12 (1) Any offense set forth in section 707-730(1)(c), 707-
13 731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-
14 1202(1)(b), or 712-1203(1)(b);
- 15 (2) An offense set forth in section 707-720, provided that
16 the charging document for the offense for which there
17 has been a conviction alleged intent to subject the
18 victim to a sexual offense;
- 19 (3) An offense set forth in section 707-756 that includes
20 an intent to promote or facilitate the commission of
21 another felony covered offense as defined in section
22 846E-1;



1 (4) An offense that is an attempt, criminal solicitation,
2 or criminal conspiracy to commit any of the offenses
3 in paragraph (1), (2), or (3);

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

6 (6) Any federal, military, or out-of-state offense that is
7 comparable to one of the offenses in paragraph (1),
8 (2), (3), or (4).

9 ~~[-e-]~~ (d) Tier 1 offenses. A covered offender ~~[whose most~~
10 ~~serious covered offense is a class C felony or its non-Hawaii~~
11 ~~equivalent, or a misdemeanor or its non-Hawaii equivalent,]~~ who
12 has maintained a clean record for the previous fifteen years,
13 excluding any time the offender was in custody or civilly
14 committed, and who has substantially complied with the
15 registration requirements of this chapter for the previous ~~[ten]~~
16 fifteen years, or for the portion of that fifteen years that
17 this chapter has been applicable, and who is not ~~[a sexually~~
18 ~~violent predator, who is not an aggravated sex offender, and who~~
19 ~~is not]~~ a repeat covered offender~~[7]~~ may petition the court, in
20 a civil proceeding, for termination of registration requirements
21 ~~[on the ground that registration is no longer necessary for the~~



1 protection of the public.]; provided that the covered offender's
2 most serious covered offense is one of the following:

3 (1) Any offense set forth in section 707-732(1)(d) or (e),
4 707-733(1)(a), 707-752, 707-A, or 707-B.

5 (2) An offense set forth in section 707-721 or 707-722,
6 provided that the offense involves unlawful
7 imprisonment of a minor by someone other than a
8 parent;

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

12 (4) An offense that is an attempt, criminal solicitation,
13 or criminal conspiracy to commit any of the offenses
14 in paragraph (1), (2), or (3);

15 (5) Any criminal offense that is comparable to one of the
16 offenses in paragraph (1), (2), (3), or (4); or

17 (6) Any federal, military, or out-of-state offense that is
18 comparable to one of the offenses in paragraph (1),
19 (2), (3), or (4).

20 (e) Notwithstanding any other provisions in this section,
21 any covered offender, forty years after the covered offender's
22 date of release or sentencing, whichever is later, for the



1 covered offender's most recent covered offense, may petition the
2 court, in a civil proceeding, for termination of registration
3 requirements.

4 (f) In the civil proceeding for termination of
5 registration requirements, the State shall be represented by the
6 attorney general; provided that the attorney general, with the
7 prosecuting agency's consent, may designate the prosecuting
8 agency that prosecuted the covered offender for the most recent
9 covered offense within the State to represent the State. For
10 covered offenders who have never been convicted of a covered
11 offense within the State of Hawaii, the attorney general shall
12 represent the State; provided that the attorney general, with
13 the prosecuting agency's consent, may designate the prosecuting
14 agency for the county in which the covered offender resides to
15 represent the State. The court may order this termination upon
16 proof by clear and convincing evidence that:

17 (1) The covered offender has met the statutory
18 requirements of eligibility to petition for
19 termination;

20 (2) The covered offender has substantially complied with
21 registration requirements;



1 (3) The covered offender is very unlikely to commit a
2 covered offense ever again; and

3 (4) Registration by the covered offender will not assist
4 in protecting the safety of the public or any member
5 thereof.

6 ~~[(d)]~~ (g) 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 14. Sections 846E-11 and 846E-13, Hawaii Revised
10 Statutes, are repealed.

11 ~~"[§846E-11] Presumptions; civil proceeding. (a) For any~~
12 ~~civil proceeding required or permitted by this chapter, the~~
13 ~~following presumptions shall apply:~~

14 ~~(1) For a covered offender who is a sexually violent~~
15 ~~predator, an aggravated sex offender, or a repeat~~
16 ~~covered offender, there shall be a presumption that~~
17 ~~the covered offender's registration requirement and~~
18 ~~public access shall continue;~~

19 ~~(2) For a covered offender convicted of a class C felony~~
20 ~~or a misdemeanor who is not a sexually violent~~
21 ~~predator, an aggravated sex offender, or a repeat~~
22 ~~covered offender, there shall be a presumption that~~



1 ~~the covered offender's registration requirement and~~
2 ~~public access shall end; and~~

3 ~~(3) For all other covered offenders, there shall be no~~
4 ~~presumption concerning the covered offender's~~
5 ~~registration requirement and public access.~~

6 ~~(b) The presumptions created in this section shall not~~
7 ~~apply to criminal proceedings initiated pursuant to section~~
8 ~~846E-9.~~

9 ~~**[§846E-13] Determination of whether a sex offender is a**~~
10 ~~**sexually violent predator.** Whenever a petition for termination~~
11 ~~of registration requirements is filed pursuant to section~~
12 ~~846E-10, or upon petition by the State at any time after a~~
13 ~~determination of guilt, a court, in a civil proceeding, shall~~
14 ~~make a determination as to whether a sex offender is a sexually~~
15 ~~violent predator. The determination of whether a person is a~~
16 ~~sexually violent predator for purposes of this section shall be~~
17 ~~made by a court after considering the recommendation of a board,~~
18 ~~appointed by the chief justice of the supreme court, composed of~~
19 ~~experts in the behavior and treatment of sex offenders, victims'~~
20 ~~rights advocates, and representatives of law enforcement~~
21 ~~agencies. The State and the sex offender may, at their~~
22 ~~discretion and expense, select additional experts in the field~~



1 ~~of psychiatry or psychology to conduct additional evaluations of~~
2 ~~the covered offender. The court shall make a determination as~~
3 ~~to whether or not the sex offender is a sexually violent~~
4 ~~predator for purposes of this chapter."]~~

5 SECTION 15. Sections 8, 9, 10, 11, and 13 shall apply to
6 any acts committed prior to, on, or after the effective date of
7 this Act.

8 SECTION 16. Sections 2, 3, 4, 5, 6, and 7 do not affect
9 rights and duties that matured, penalties that were incurred,
10 and proceedings that were begun, before the effective date of
11 this Act.

12 SECTION 17. In codifying the new sections added to chapter
13 707, Hawaii Revised Statutes, by section 2 of this Act, the
14 revisor of statutes shall substitute appropriate section numbers
15 for the letters used in the designations of, and references to,
16 those new sections in this Act.

17 SECTION 18. If any provision of this Act, or the
18 application thereof to any person or circumstance is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act, which can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.



1 SECTION 19. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 20. This Act shall take effect July 1, 2080.



Report Title:

Sex Offenses; Sex Offender Registration

Description:

Creates two new offenses involving sexual predation of minors; amends existing offenses to expand conduct covered and impose mandatory sentences; amends Hawaii's sex offender registry laws to comply with federal requirements by, among other things, providing more up-to-date and useful information about registered sex offenders to the public. Effective 7/1/2080.
(SB2962 SD2)

