



GOV. MSG. NO. **1228**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 15, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 15, 2011, the following bill was signed into law:

SB52 SD1 HD1 CD1

RELATING TO REGISTRATION OF SEX
OFFENDERS
Act 125 (11)

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

JUN 15 2011

on _____

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 125
S.B. NO. 52
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO REGISTRATION OF SEX OFFENDERS.

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 "sexual offense" to read
3 as follows:
4 "Sexual offense" means an offense that is:
5 (1) Set forth in section 707-730(1)(a), 707-730(1)(b),
6 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a),
7 707-731(1)(b), 707-731(1)(c), 707-732(1)(a),
8 707-732(1)(b), 707-732(1)(c), 707-732(1)(d),
9 707-732(1)(e), 707-732(1)(f), 707-733(1)(a),
10 707-733.6, 712-1202(1)(a), 712-1202(1)(b), or
11 [~~712-1203(1)(b)~~], 712-1203(1), but excludes conduct
12 that is criminal only because of the age of the
13 victim, as provided in section 707-730(1)(b), or
14 section 707-732(1)(b) if the perpetrator is under the
15 age of eighteen;
16 (2) An act defined in section 707-720 if the charging
17 document for the offense for which there has been a



1 conviction alleged intent to subject the victim to a
2 sexual offense;

3 (3) An act that consists of:

4 (A) Criminal sexual conduct toward a minor, including
5 but not limited to an offense set forth in
6 section 707-759;

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

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

10 (D) Production, distribution, or possession of child
11 pornography chargeable as a felony under section
12 707-750, 707-751, or 707-752;

13 (E) Electronic enticement of a child chargeable under
14 section 707-756 or 707-757 if the offense was
15 committed with the intent to promote or
16 facilitate the commission of another covered
17 offense as defined in this section; or

18 (F) Solicitation of a minor to practice prostitution;

19 (4) A violation of privacy under section 711-1110.9;

20 [~~4~~] (5) A criminal offense that is comparable to or that
21 exceeds a sexual offense as defined in paragraphs (1)
22 through [~~3~~] (4) or any federal, military, or out-of-



1 state conviction for any offense that under the laws
2 of this State would be a sexual offense as defined in
3 paragraphs (1) through [~~(3)~~] (4); or
4 [~~(5)~~] (6) An act, as described in chapter 705, that is an
5 attempt, criminal solicitation, or criminal conspiracy
6 to commit one of the offenses designated in paragraphs
7 (1) through [~~(4)~~] (5)."

8 SECTION 2. Section 846E-10, Hawaii Revised Statutes, is
9 amended by amending subsections (c) and (d) to read as follows:

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

21 (1) Any offense set forth in section 707-730(1)(c),
22 707-731(1)(c), 707-732(1)(c), 707-750, 707-751,



1 712-1202(1)(b), or 712-1203(1)(b) [7], as section
2 712-1203(1)(b) read prior to its amendment pursuant to
3 section 9 of Act 147, Session Laws of Hawaii 2008;

4 (2) An offense set forth in section 707-720; provided that
5 the charging document for the offense for which there
6 has been a conviction alleged intent to subject the
7 victim to a sexual offense;

8 (3) An offense set forth in section 707-756 that includes
9 an intent to promote or facilitate the commission of
10 another felony covered offense as defined in section
11 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 (d) Tier 1 offenses. A covered offender who has
21 maintained a clean record for the previous ten years, excluding
22 any time the offender was in custody or civilly committed, and



1 who has substantially complied with the registration
2 requirements of this chapter for the previous ten years, or for
3 the portion of that ten years that this chapter has been
4 applicable, and who is not a repeat covered offender may
5 petition the court, in a civil proceeding, for termination of
6 registration requirements; provided that the covered offender's
7 most serious covered offense is one of the following:

- 8 (1) Any offense set forth in section 707-732(1)(d) or (e),
9 707-733(1)(a), 707-752, 707-759 [†], 711-1110.9,
10 712-1202(1)(a), or 712-1203(1);
- 11 (2) An offense set forth in section 707-721 or 707-722;
12 provided that the offense involves unlawful
13 imprisonment of a minor by someone other than a
14 parent;
- 15 (3) An offense set forth in section 707-757 that includes
16 an intent to promote or facilitate the commission of
17 another covered offense as defined in section 846E-1;
- 18 (4) An offense that is an attempt, criminal solicitation,
19 or criminal conspiracy to commit any of the offenses
20 in paragraph (1), (2), or (3);
- 21 (5) Any criminal offense that is comparable to one of the
22 offenses in paragraph (1), (2), (3), or (4); or



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

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2011;
7 provided that consistent with the definition of "sex offender"
8 as provided in section 846E-1, Hawaii Revised Statutes, this Act
9 shall apply retroactively to any person who is or was:

10 (1) Convicted at any time of a violation of privacy in the
11 first degree under section 711-1110.9, Hawaii Revised
12 Statutes; or

13 (2) Charged at any time with a violation of privacy in the
14 first degree under section 711-1110.9, Hawaii Revised
15 Statutes, is currently or was previously found unfit
16 to proceed against the charges, and is currently or
17 was previously released into the community or who is
18 currently or was previously acquitted due to a
19 physical or mental disease, disorder, or defect
20 pursuant to chapter 704, Hawaii Revised Statutes, and
21 is currently or was previously released into the
22 community.

S.B. NO.

52
S.D. 1
H.D. 1
C.D. 1

APPROVED this 15 day of JUN, 2011

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large initial "N".

GOVERNOR OF THE STATE OF HAWAII