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# A BILL FOR AN ACT

RELATING TO REGISTRATION OF COVERED OFFENDERS.

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

1           SECTION 1. Act 80, Session Laws of Hawaii 2008, amended  
2 chapter 846E, Hawaii Revised Statutes, Hawaii's covered offender  
3 registration law, to take major steps toward compliance with  
4 title I of the federal Adam Walsh Child Protection and Safety  
5 Act of 2006, also known as the Sex Offender Registration and  
6 Notification Act, and enable the Hawaii covered offender  
7 registration program to effectively participate with the  
8 nationwide network of sex offender registries.

9           When declaring the purpose of the Sex Offender Registration  
10 and Notification Act, Congress stated: "In order to protect the  
11 public from sex offenders and offenders against children, and in  
12 response to the vicious attacks by violent predators . . .  
13 Congress in this Act establishes a comprehensive national system  
14 for the registration of those offenders." The Sex Offender  
15 Registration and Notification Act was in response to a number of  
16 high profile violent crimes committed by individuals who had  
17 previously been convicted of sex crimes but under the old  
18 standards were not required to register as sex offenders. Under



1 the Sex Offender Registration and Notification Act, the  
2 predecessor sex offender program was repealed. The Sex Offender  
3 Registration and Notification Act established new baseline sex  
4 offender registry standards for state registries.

5 The sex offender registration and notification programs  
6 serve a number of purposes. The programs provide systems for  
7 tracking sex offenders released into our communities. In the  
8 event of a violent sex crime, the programs provide law  
9 enforcement with information on sex offenders in the area the  
10 crime was committed. The information may help law enforcement  
11 identify the perpetrator, and may help law enforcement to  
12 quickly locate and apprehend the perpetrator. The programs may  
13 also deter released offenders from committing other crimes  
14 because they require offenders to maintain contact with  
15 authorities and provide detailed information regarding their  
16 whereabouts. The public notification aspects of the programs  
17 allow members of the public access to information on sex  
18 offenders in their area, thereby enabling them to take  
19 reasonable measures to protect themselves.

20 The purpose of this Act is to clarify provisions in chapter  
21 846E, Hawaii Revised Statutes, the State's covered offender  
22 registration law, address important issues that have come up in



1 the implementation of the covered offender registration law, and  
2 continue to make efforts toward Sex Offender Registration and  
3 Notification Act compliance.

4 SECTION 2. Section 806-83, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Criminal charges may be instituted by written  
7 information for a felony when the charge is a class C felony  
8 under section 19-3.5 (voter fraud); section 128D-10 (knowing  
9 releases); section 132D-14(a)(1), (2)(A), and (3) (relating to  
10 penalties for failure to comply with requirements of sections  
11 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep  
12 unloaded firearms other than pistols and revolvers); section  
13 134-7(a) and (b) (ownership or possession prohibited); section  
14 134-8 (ownership, etc., of automatic firearms, silencers, etc.,  
15 prohibited; penalties); section 134-9 (licenses to carry);  
16 section 134-17(a) (relating to false information or evidence  
17 concerning psychiatric or criminal history); section 134-51  
18 (deadly weapons); section 134-52 (switchblade knives); section  
19 134-53 (butterfly knives); section 188-23 (possession or use of  
20 explosives, electrofishing devices, and poisonous substances in  
21 state waters prohibited); section 231-34 (attempt to evade or  
22 defeat tax); section 231-36 (false and fraudulent statements);



1 section 245-37 (sale or purchase of packages of cigarettes  
2 without stamps); section 245-38 (vending unstamped cigarettes);  
3 section 245-51 (export and foreign cigarettes prohibited);  
4 section 245-52 (alteration of packaging prohibited); section  
5 291C-12.5 (accidents involving substantial bodily injury);  
6 section 291E-61.5 (habitually operating a vehicle under the  
7 influence of an intoxicant); section 329-41 (prohibited acts B--  
8 penalties); section 329-42 (prohibited acts C--penalties);  
9 section 329-43.5 (prohibited acts related to drug  
10 paraphernalia); section 329C-2 (manufacture, distribution, or  
11 possession with intent to distribute an imitation controlled  
12 substance to a person under eighteen years of age); section 346-  
13 34(d)(2) and (e) (relating to fraud involving food stamps or  
14 coupons); section 346-43.5 (medical assistance frauds;  
15 penalties); section 383-141 (falsely obtaining benefits, etc.);  
16 section 431:2-403(b)(2) (insurance fraud); section 482D-7  
17 (violation of fineness standards and stamping requirements);  
18 section 485A-301 (securities registration requirement); section  
19 485A-401 (broker-dealer registration requirement and  
20 exemptions); section 485A-402 (agent registration requirement  
21 and exemptions); section 485A-403 (investment advisor  
22 registration requirement and exemptions); section 485A-404



1 (investment advisor representative registration requirement and  
2 exemptions); section 485A-405 (federal covered investment  
3 adviser notice filing requirement); section 485A-501 (general  
4 fraud); section 485A-502 (prohibited conduct in providing  
5 investment advice); section 707-703 (negligent homicide in the  
6 second degree); section 707-705 (negligent injury in the first  
7 degree); section 707-711 (assault in the second degree); section  
8 707-713 (reckless endangering in the first degree); section 707-  
9 721 (unlawful imprisonment in the first degree); section 707-726  
10 (custodial interference in the first degree); section 707-757  
11 (electronic enticement of a child in the second degree); section  
12 707-766 (extortion in the second degree); section 708-811  
13 (burglary in the second degree); section 708-812.6 (unauthorized  
14 entry in a dwelling); section 708-821 (criminal property damage  
15 in the second degree); section 708-831 (theft in the second  
16 degree); section 708-833.5 (shoplifting); section 708-835.5  
17 (theft of livestock); section 708-836 (unauthorized control of  
18 propelled vehicle); section 708-836.5 (unauthorized entry into  
19 motor vehicle in the first degree); section 708-839.5 (theft of  
20 utility services); section 708-839.55 (unauthorized possession  
21 of confidential personal information); section 708-839.8  
22 (identity theft in the third degree); section 708-852 (forgery



1 in the second degree); section 708-854 (criminal possession of a  
2 forgery device); section 708-858 (suppressing a testamentary or  
3 recordable instrument); section 708-875 (trademark  
4 counterfeiting); section 708-891.5 (computer fraud in the second  
5 degree); section 708-892.5 (computer damage in the second  
6 degree); section 708-895.6 (unauthorized computer access in the  
7 second degree); section 708-8100 (fraudulent use of a credit  
8 card); section 708-8102 (theft, forgery, etc., of credit cards);  
9 section 708-8103 (credit card fraud by a provider of goods or  
10 services); section 708-8104 (possession of unauthorized credit  
11 card machinery or incomplete cards); section 708-8200 (cable  
12 television service fraud in the first degree); section 708-8202  
13 (telecommunication service fraud in the first degree); section  
14 709-903.5 (endangering the welfare of a minor in the first  
15 degree); section 709-906 (abuse of family or household members);  
16 section 710-1016.3 (obtaining a government-issued identification  
17 document under false pretenses in the first degree); section  
18 710-1016.6 (impersonating a law enforcement officer in the first  
19 degree); section 710-1017.5 (sale or manufacture of deceptive  
20 identification document); section 710-1018 (securing the  
21 proceeds of an offense); section 710-1021 (escape in the second  
22 degree); section 710-1023 (promoting prison contraband in the



1 second degree); section 710-1024 (bail jumping in the first  
2 degree); section 710-1029 (hindering prosecution in the first  
3 degree); section 710-1060 (perjury); section 710-1072.5  
4 (obstruction of justice); section 711-1103 (riot); section 711-  
5 1109.3 (cruelty to animals; fighting dogs); section 711-1110.9  
6 (violation of privacy in the first degree); section 711-1112  
7 (interference with the operator of a public transit vehicle);  
8 section 712-1221 (promoting gambling in the first degree);  
9 section 712-1222.5 (promoting gambling aboard ships); section  
10 712-1224 (possession of gambling records in the first degree);  
11 section 712-1243 (promoting a dangerous drug in the third  
12 degree); section 712-1246 (promoting a harmful drug in the third  
13 degree); section 712-1247 (promoting a detrimental drug in the  
14 first degree); section 712-1249.6 (promoting a controlled  
15 substance in, on, or near schools, school vehicles, or public  
16 parks); section 803-42 (interception, access, and disclosure of  
17 wire, oral, or electronic communications, use of pen register,  
18 trap and trace device, and mobile tracking device prohibited);  
19 or section [~~846E-9(b)~~] 846E-9 (failure to comply with covered  
20 offender registration requirements)."



1 SECTION 3. Section 846E-1, Hawaii Revised Statutes, is  
2 amended by adding seven new definitions to be appropriately  
3 inserted and to read as follows:

4 "Attorney general" means the attorney general of the State  
5 of Hawaii, the department of the attorney general, or an  
6 authorized representative of the attorney general.

7 "Chief of police" means the county chief of police, the  
8 county police department, or an authorized representative of the  
9 chief of police.

10 "Foreign conviction" means a conviction under the laws of:

11 (1) Canada, United Kingdom, Australia, or New Zealand; or

12 (2) Any other foreign country, if the United States  
13 Department of State, in its Country Reports on Human  
14 Rights Practices, has concluded that an independent  
15 judiciary vigorously enforced the right to a fair  
16 trial in that country during the year in which the  
17 conviction occurred.

18 "Out-of-state conviction" means a conviction in any other  
19 state of the United States, the District of Columbia, or the  
20 five principal United States territories, including the  
21 Commonwealth of Puerto Rico, Guam, American Samoa, the Northern  
22 Mariana Islands, and the United States Virgin Islands.





1       "Permanent residence" means a building, permanent structure  
2 or unit therein, or watercraft where the covered offender  
3 resides and intends to reside indefinitely, or at least for the  
4 next one hundred eighty days, and which the offender owns,  
5 rents, or occupies with the consent of the owner.

6       "Temporary residence" means a building, permanent structure  
7 or unit therein, watercraft, emergency shelter, or transitional  
8 housing facility where the covered offender resides, but does  
9 not intend to reside for more than one hundred eighty days.

10       "Tribal conviction" means a conviction by a tribal court of  
11 an Indian tribe recognized by the government of the United  
12 States."

13       SECTION 4. Section 846E-1, Hawaii Revised Statutes, is  
14 amended by amending the definitions of "conviction", "crime  
15 against minors", and "sexual offense" to read as follows:

16       "Conviction" means a judgment on the verdict, or a finding  
17 of guilt after a plea of guilty or nolo contendere, excluding  
18 the adjudication of a minor[-], and occurs on the date judgment  
19 is entered.

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



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

16 "Sexual offense" means an offense that is:

- 17 (1) Set forth in section [~~707-730(1)(a), 707-730(1)(b),~~
- 18 ~~707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a),~~
- 19 ~~707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-~~
- 20 ~~732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-~~
- 21 ~~732(1)(e), 707-732(1)(f),~~ 707-730(1), 707-731(1),
- 22 707-732(1), 707-733(1)(a), 707-733.6, [~~712-1202(1)(a),~~



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

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

10 (3) An act that consists of:

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

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

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

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

20 (E) Electronic enticement of a child chargeable under  
21 section 707-756 or 707-757 if the offense was  
22 committed with the intent to promote or



- 1 facilitate the commission of another covered  
2 offense as defined in this section; or
- 3 (F) Solicitation of a minor to practice prostitution;
- 4 (4) A violation of privacy under section 711-1110.9;
- 5 (5) An act, as described in chapter 705, that is an  
6 attempt, criminal solicitation, or criminal conspiracy  
7 to commit one of the offenses designated in paragraphs  
8 (1) through (4);
- 9 ~~[-(5)]~~ (6) A criminal offense that is comparable to or that  
10 exceeds a sexual offense as defined in paragraphs (1)  
11 through ~~[-(4) or any]~~ (5); or
- 12 (7) Any federal, military, [or] out-of-state, tribal, or  
13 foreign conviction for any offense that under the laws  
14 of this State would be a sexual offense as defined in  
15 paragraphs (1) through [-(4); or] (6).
- 16 ~~[-(6) An act, as described in chapter 705, that is an~~  
17 ~~attempt, criminal solicitation, or criminal conspiracy~~  
18 ~~to commit one of the offenses designated in paragraphs~~  
19 ~~(1) through (5).]~~"

20 SECTION 5. Section 846E-1, Hawaii Revised Statutes, is  
21 amended by repealing the definitions of "mental abnormality,  
22 "personality disorder," and "predatory".



1       ~~["Mental abnormality" means a condition involving a~~  
2 ~~disposition to commit criminal sexual offenses with a frequency~~  
3 ~~that makes the person a menace to others.~~

4       ~~"Personality disorder" shall have the same meaning as the~~  
5 ~~term is used in the Diagnostic and Statistical Manual of Mental~~  
6 ~~Health Disorders: DSM-IV, American Psychiatric Association,~~  
7 ~~Diagnostic and Statistical Manual of Mental Disorders (4th ed.~~  
8 ~~1994).~~

9       ~~"Predatory" means an act directed at:~~

- 10       ~~(1) A stranger; or~~  
11       ~~(2) A person with whom a relationship has been established~~  
12       ~~or promoted for the primary purpose of~~  
13       ~~victimization." ]~~

14       SECTION 6. Section 846E-2, Hawaii Revised Statutes, is  
15 amended as follows:

16       1. By amending subsection (a) to read:

17       "(a) A covered offender shall register with the attorney  
18 general and comply with the provisions of this chapter for life  
19 or for a shorter period of time as provided in this chapter.  
20 Registration under this subsection is required whenever the  
21 covered offender, whether or not a resident of this State,  
22 remains in this State for more than ten days or for an aggregate



1 period exceeding thirty days in one calendar year. A covered  
2 offender shall be eligible to petition the court in a civil  
3 proceeding for an order that the covered offender's registration  
4 requirements under this chapter be terminated, as provided in  
5 section 846E-10."

6 2. By amending subsection (d) to read:

7 "(d) Registration information for each covered offender  
8 shall include a signed statement by the covered offender  
9 containing:

- 10 (1) The name, all prior names, nicknames and pseudonyms,  
11 and all aliases used by the covered offender or under  
12 which the covered offender has been known and other  
13 identifying information, including date of birth and  
14 any alias date of birth, social security number and  
15 any alias social security number, sex, race, height,  
16 weight, and hair and eye color;
- 17 (2) The actual address and telephone number of the covered  
18 offender's permanent residence or [~~any current,~~  
19 ~~temporary address where the covered offender resides,~~]  
20 the address of the covered offender's current  
21 temporary residence, or if an address is not  
22 available, a description of the place or area in which



1 the covered offender resides for at least thirty  
2 nonconsecutive days within a sixty-day period, and for  
3 each address or place where the covered offender  
4 resides, how long the covered offender has resided  
5 there;

6 (3) The actual address or description of the place or  
7 area, the actual length of time of the stay, and  
8 telephone number where the covered offender is staying  
9 for a period of more than ten days, if other than the  
10 stated residence;

11 (4) If known, the future address and telephone number of  
12 the place where the covered offender is planning to  
13 reside, if other than the stated residence;

14 (5) Any electronic mail address, any instant message name,  
15 any internet designation or moniker, and any internet  
16 address used for routing or self-identification;

17 (6) Any cell phone number and other designations used for  
18 routing or self-identification in telephonic  
19 communications;

20 (7) Names and, if known, actual business addresses of  
21 current and known future employers, including  
22 information for any place where the covered offender



1 works as a volunteer or otherwise works without  
2 remuneration, and the starting and ending dates of any  
3 such employment;

4 (8) For covered offenders who may not have a fixed place  
5 of employment, a description of the places where such  
6 a covered offender works, such as 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 (10) Names and actual addresses of current and known future  
11 educational institutions with which the covered  
12 offender is affiliated in any way, whether or not  
13 compensated, including but not limited to affiliation  
14 as a faculty member, an employee, or a student, and  
15 the starting and ending dates of any such affiliation;

16 (11) The year, make, model, color, and license or  
17 registration or other identifying number of all  
18 vehicles, including automobiles, watercrafts, and  
19 aircrafts, currently owned or operated by the covered  
20 offender and the address or description of the place  
21 or places where the covered offender's vehicle or





1 vehicles are habitually parked, docked, or otherwise  
2 kept;

3 (12) Passports and information about the passports, if the  
4 covered offender has passports, and documents  
5 establishing immigration status and information about  
6 these documents, if the covered offender is an alien;

7 (13) A statement listing all covered offenses for which the  
8 covered offender has been convicted or found unfit to  
9 proceed or acquitted pursuant to chapter 704;

10 (14) A statement indicating whether the covered offender  
11 has received or is currently receiving treatment  
12 ordered by a court of competent jurisdiction or by the  
13 Hawaii paroling authority;

14 (15) A statement indicating whether the covered offender is  
15 a United States citizen; and

16 (16) Any additional identifying information about the  
17 covered offender."

18 SECTION 7. Section 846E-4, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Each person, or that person's designee, in charge of  
21 a jail, prison, hospital, school, or other institution to which  
22 a covered offender has been committed pursuant to a conviction,



1 or an acquittal or finding of unfitness to proceed pursuant to  
2 chapter 704, for a covered offense, and each judge, or that  
3 judge's designee, who continues bail for or releases a covered  
4 offender following [~~a guilty verdict or a plea of guilty or nolo~~  
5 ~~contendere,~~] sentencing and the entry of a judgment of  
6 conviction, who releases a covered offender on probation or who  
7 discharges a covered offender upon payment of a fine, and each  
8 agency having jurisdiction, shall, prior to the discharge,  
9 parole, or release of the covered offender:

- 10 (1) Explain to the covered offender the duty to register  
11 and the consequences of failing to register under this  
12 chapter;
- 13 (2) Obtain from the covered offender all of the  
14 registration information required by this chapter;
- 15 (3) Inform the covered offender that if at any time the  
16 covered offender changes any of the covered offender's  
17 registration information, the covered offender shall  
18 notify the attorney general of the new registration  
19 information in writing within three working days;
- 20 (4) Inform the covered offender that, if at any time the  
21 covered offender changes residence to another state,  
22 the covered offender shall register the new address



1 with the attorney general and also with a designated  
2 law enforcement agency in the new state, if the new  
3 state has a registration requirement, within the  
4 period of time mandated by the new state's sex  
5 offender registration laws;

6 (5) Obtain and verify fingerprints and a photograph of the  
7 covered offender, if these have not already been  
8 obtained or verified in connection with the offense  
9 that triggers the registration;

10 (6) Require the covered offender to sign a statement  
11 indicating that the duty to register has been  
12 explained to the covered offender; and

13 (7) Give one copy of the signed statement and one copy of  
14 the registration information to the covered offender."

15 SECTION 8. Section 846E-5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§846E-5 Periodic verification of registration**  
18 **information.** [~~Unless the covered offender is incarcerated or~~  
19 ~~has registered with a designated law enforcement agency after~~  
20 ~~establishing residence in another state, on the first day of~~  
21 ~~every ninety day period following the covered offender's initial~~  
22 ~~registration date:] (a) For the covered offender who has~~



1 registered a permanent residence address to which the United  
2 States Postal Service will deliver mail or a permanent residence  
3 and a registered post office box, during the first week of the  
4 months of January, April, July, and October of every year,

5 [~~1~~] ~~The~~ the attorney general shall mail a nonforwardable  
6 verification form to the last reported permanent  
7 residence address or post office box of the covered  
8 offender~~[+]~~. Upon receipt of the verification form:

9 [~~2~~] (1) The covered offender shall sign the verification  
10 form and state that the covered offender still resides  
11 at the address last reported to the attorney general  
12 and that no other registration information has changed  
13 or shall provide the new information; and

14 [~~3~~] (2) The covered offender shall mail the signed and  
15 completed verification form to the attorney general  
16 within ten days after receipt of the form~~[+and~~

17 ~~(4) If the covered offender fails to mail the verification~~  
18 ~~form to the attorney general within ten days after~~  
19 ~~receipt of the form, the covered offender shall be in~~  
20 ~~violation of this chapter, unless the covered offender~~  
21 ~~proves that the covered offender has not changed the~~  
22 ~~residence address.~~



1 ~~This section shall become effective on July 1, 1998].~~  
2 (b) For the covered offender who has registered:  
3 (1) A temporary residence address;  
4 (2) A description of a place or area in which the covered  
5 offender resides for at least thirty nonconsecutive  
6 days within a sixty-day period;  
7 (3) No place of residence; or  
8 (4) A permanent residence address, to which the United  
9 States Postal Service will not deliver mail, and has  
10 no registered post office box,  
11 during the first week of the months of January, April, July, and  
12 October of every year, the covered offender shall report to the  
13 chief of police where the covered offender resides, or to such  
14 other department or agency that may be designated by the  
15 attorney general in rules adopted pursuant to chapter 91 for  
16 purposes of administration of this section, and shall review the  
17 existing information in the registry that is within the covered  
18 offender's knowledge, correct any information that has changed  
19 or is inaccurate, and provide any new information that may be  
20 required.  
21 (c) The periodic verification provisions of this section  
22 shall not apply to covered offenders who are incarcerated or



1 have registered with a designated law enforcement agency after  
2 establishing residence in another state."

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

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



1 ~~identity by photograph and fingerprint impression until the~~  
2 ~~covered offender establishes a new residence and notifies the~~  
3 ~~attorney general in writing of the actual address of the new~~  
4 ~~residence. Each time the covered offender reports to a police~~  
5 ~~station, the covered offender shall disclose every location~~  
6 ~~where the covered offender has slept in the previous month.] of~~  
7 the covered offender's current residence information. If the  
8 covered offender leaves the State and establishes a new  
9 residence [is] in another state that has a registration  
10 requirement, the person shall register with the designated law  
11 enforcement agency in the state to which the person moves,  
12 within the period of time mandated by the new state's sex  
13 offender registration laws."

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

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

- 21 (1) Fails to register with the attorney general by  
22 providing to the attorney general or the Hawaii



- 1 criminal justice data center the person's registration  
2 information;
- 3 (2) Fails to report in person every five years until  
4 June 30, 2009, and beginning on July 1, 2009, once  
5 every year, during the thirty-day period following the  
6 offender's date of birth, to the chief of police where  
7 the covered offender's residence is located, or to  
8 such other department or agency designated by the  
9 attorney general;
- 10 (3) While reporting to the chief of police or such other  
11 department or agency designated by the attorney  
12 general, fails to correct information in the registry  
13 within the offender's knowledge that has changed or is  
14 inaccurate regarding information required by section  
15 846E-2(d)(1) through (12);
- 16 (4) While reporting to the chief of police or such other  
17 department or agency designated by the attorney  
18 general, fails to provide new information that may be  
19 required by section 846E-2(d)(1) through (12);
- 20 (5) While reporting to the chief of police or such other  
21 department or agency designated by the attorney  
22 general, does not allow the police or other designated





- 1 department or agency to take a current photograph of  
2 the person;
- 3 (6) 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(g)  
7 require the person to do so;
- 8 (7) 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 (8) Provides false registration information to the  
13 attorney general, the Hawaii criminal justice data  
14 center, or a chief of police;
- 15 (9) 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;
- 19 (10) 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]~~ fails to notify the attorney general in  
2                           writing within three working days [~~that the~~  
3                           ~~person no longer resides at the person's~~  
4                           ~~registered residence, or]~~ of the covered  
5                           offender's current residence information;
- 6           ~~[(B)~~ ~~Fails to report to a police station in the State~~  
7                           ~~by the last day of every month, or]~~
- 8           (11) Fails to mail or deliver the periodic verification of  
9                           registration information form to the attorney general  
10                          within ten days of receipt, as required by section  
11                          846E-5; provided that it shall be an affirmative  
12                          defense that the periodic verification form mailed to  
13                          the covered offender was delivered when the covered  
14                          offender was absent from the registered address and  
15                          the covered offender had previously notified the  
16                          Hawaii criminal justice data center that the covered  
17                          offender would be absent during the period that the  
18                          periodic verification form was delivered[~~-~~]; or
- 19           (12) Fails to report to the chief of police where the  
20                          covered offender resides, or to such other department  
21                          or agency that may be designated by the attorney  
22                          general in rules adopted pursuant to chapter 91,



1           during the first week of the months of January, April,  
2           July, and October of every year, and verify and update  
3           the covered offender's registration information as  
4           required by section 846E-5(b).

5           (b) With respect to subsection (a)(1), (2), (6), (7),  
6           (10), (11), or (12), if a defendant intends to rely upon the  
7           defense that the covered offender was in custody or civilly  
8           committed, the defendant shall within the time provided for the  
9           filing of pretrial motions or at a later time as the court may  
10           direct, notify the prosecutor in writing of the defendant's  
11           intention and file a copy of the notice with the court.

12           ~~[(b)]~~ (c) Failure to comply with covered offender  
13 registration requirements is a class C felony."

14           SECTION 11. Section 846E-10, Hawaii Revised Statutes, is  
15 amended as follows:

16           1. By amending subsection (a) to read:

17           "(a) Tier 3 offenses. A covered offender whose covered  
18 offense is any of the following offenses shall register for life  
19 and, except as provided in subsection (e), may not petition the  
20 court, in a civil proceeding, for termination of registration  
21 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, tribal, or  
13 foreign offense that is comparable to one of the  
14 offenses in paragraph (1), (2), or (3)."

15 2. By amending subsections (c) and (d) to read:

16 "(c) Tier 2 offenses. A covered offender who has  
17 maintained a clean record for the previous twenty-five years,  
18 excluding any time the offender was in custody or civilly  
19 committed, and who has substantially complied with the  
20 registration requirements of this chapter for the previous  
21 twenty-five years, or for the portion of that twenty-five years  
22 that this chapter has been applicable, and who is not a repeat



1 covered offender may petition the court, in a civil proceeding,  
2 for termination of registration requirements; provided that the  
3 covered offender's most serious covered offense is one of the  
4 following:

5 (1) Any offense set forth in section 707-730(1)(c), 707-  
6 731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-  
7 1202(1)(b), or 712-1203(1)(b), as section 712-  
8 1203(1)(b) read prior to its amendment pursuant to  
9 section 9 of Act 147, Session Laws of Hawaii 2008;

10 (2) An offense set forth in section 707-720; provided that  
11 the charging document for the offense for which there  
12 has been a conviction alleged intent to subject the  
13 victim to a sexual offense;

14 (3) An offense set forth in section 707-756 that includes  
15 an intent to promote or facilitate the commission of  
16 another felony covered offense as defined in section  
17 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, [ø] out-of-state, tribal, or  
2 foreign offense that is comparable to one of the  
3 offenses in paragraph (1), (2), (3), or (4).

4 (d) Tier 1 offenses. A covered offender who has  
5 maintained a clean record for the previous ten years, excluding  
6 any time the offender was in custody or civilly committed, and  
7 who has substantially complied with the registration  
8 requirements of this chapter for the previous ten years, or for  
9 the portion of that ten years that this chapter has been  
10 applicable, and who is not a repeat covered offender may  
11 petition the court, in a civil proceeding, for termination of  
12 registration requirements; provided that the covered offender's  
13 most serious covered offense is one of the following:

14 (1) Any offense set forth in section 707-732(1)(d) or (e),  
15 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-  
16 1202(1)(a), or 712-1203(1);

17 (2) An offense set forth in section 707-721 or 707-722;  
18 provided that the offense involves unlawful  
19 imprisonment of a minor by someone other than a  
20 parent;



- 1           (3) An offense set forth in section 707-757 that includes
- 2                    an intent to promote or facilitate the commission of
- 3                    another covered offense as defined in section 846E-1;
- 4           (4) An offense that is an attempt, criminal solicitation,
- 5                    or criminal conspiracy to commit any of the offenses
- 6                    in paragraph (1), (2), or (3);
- 7           (5) Any criminal offense that is comparable to one of the
- 8                    offenses in paragraph (1), (2), (3), or (4); [~~or~~]
- 9           (6) Any federal, military, [~~or~~] out-of-state, tribal, or
- 10                   foreign offense that is comparable to one of the
- 11                    offenses in paragraph (1), (2), (3), or (4) [~~or~~]; or
- 12           (7) Any other covered offense that is not specified in
- 13                    subsection (a) or (c) or paragraph (1), (2), (3), (4),
- 14                    (5), or (6)."

15           SECTION 12. Sections 2, 3, 4, 6, 7, 8, 9, and 11 shall

16 apply to any acts committed prior to, on, or after the effective

17 date of this Act.

18           SECTION 13. Section 10 of this Act does not affect rights

19 and duties that matured, penalties that were incurred, and

20 proceedings that were begun, before the effective date of this

21 Act.

1 SECTION 14. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect on July 1, 2050.





**Report Title:**

Covered Offenders; Registration

**Description:**

Adds comparable foreign convictions and tribal convictions to covered offenses; makes offenders who are subject to sex offender registration or notification in their jurisdiction of conviction, covered offenders under Hawaii law; makes it clear that a covered offender must register and report the offender's permanent residence, current temporary residence, or if an address is not available, a description of the place or area in which the covered offender resides; amends the definition of "conviction" in section 846E-1, Hawaii Revised Statutes, to clarify that conviction, for purposes of sex offender registration, occurs on the date judgment is entered; creates a tier classification for any covered sexual offenses that are not clearly included within the current tier classification law; addresses the problem of covered offenders who do not have registered residences to which the post office can deliver mail and cannot receive the ninety-day verification mailings by requiring these offenders to report in person during the first weeks of the months of January, April, July, and October; and repeals the definitions of "mental abnormality," "personality disorder," and "predatory." Makes conforming amendments. Effective July 1, 2050. (SB1016 HD1)

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

