
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2 predecessor sex offender program was repealed.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)."

21 SECTION 3. Section 846E-1, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By adding seven new definitions to be appropriately
2 inserted and to read:

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

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

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

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

11 (2) Any other foreign country, if the United States

12 Department of State, in its Country Reports on Human

13 Rights Practices, has concluded that an independent

14 judiciary vigorously enforced the right to a fair

15 trial in that country during the year in which the

16 conviction occurred and enforces the right to a fair

17 trial to the same or higher standard as the countries

18 listed in paragraph (1).

19 "Out-of-state conviction" means a conviction in any other

20 state of the United States, the District of Columbia, or the

21 five principal United States territories, including the



1 Commonwealth of Puerto Rico, Guam, American Samoa, the Northern
2 Mariana Islands, and the United States Virgin Islands.

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

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

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

15 2. By amending the definitions of "conviction", "crime
16 against minors", and "sexual offense" to read:

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



1 "Crime against minors" excludes "sexual offenses" as
2 defined in this section and means a criminal offense that
3 consists of:

4 (1) Kidnapping of a minor, by someone other than a parent;

5 (2) Unlawful imprisonment in the first or second degree
6 that involves the unlawful imprisonment of a minor by
7 someone other than a parent;

8 (3) An act, as described in chapter 705, that is an
9 attempt, criminal solicitation, or criminal conspiracy
10 to commit one of the offenses designated in paragraph
11 (1) or (2); [~~or~~]

12 (4) A criminal offense that is comparable to or which
13 exceeds one of the offenses designated in paragraphs
14 (1) through (3) [~~or any~~]; or

15 (5) Any federal, military, [~~or~~] out-of-state, tribal, or
16 foreign conviction for any offense that, under the
17 laws of this State, would be a crime against minors as
18 designated in paragraphs (1) through [~~(3)~~] (4).

19 "Sexual offense" means an offense that is:

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



- 1 ~~732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-~~
2 ~~732(1)(e), 707-732(1)(f),~~] 707-730(1), 707-731(1),
3 707-732(1), 707-733(1)(a), 707-733.6, [712-1202(1)(a),
4 ~~712-1202(1)(b),~~] 712-1202(1), or 712-1203(1), but
5 excludes conduct that is criminal only because of the
6 age of the victim, as provided in section 707-
7 730(1)(b), or section 707-732(1)(b) if the perpetrator
8 is under the age of eighteen;
- 9 (2) An act defined in section 707-720 if the charging
10 document for the offense for which there has been a
11 conviction alleged intent to subject the victim to a
12 sexual offense;
- 13 (3) An act that consists of:
- 14 (A) Criminal sexual conduct toward a minor, including
15 but not limited to an offense set forth in
16 section 707-759;
- 17 (B) Solicitation of a minor who is less than fourteen
18 years old to engage in sexual conduct;
- 19 (C) Use of a minor in a sexual performance;
- 20 (D) Production, distribution, or possession of child
21 pornography chargeable as a felony under section
22 707-750, 707-751, or 707-752;



- 1 (E) Electronic enticement of a child chargeable under
2 section 707-756 or 707-757 if the offense was
3 committed with the intent to promote or
4 facilitate the commission of another covered
5 offense as defined in this section; or
- 6 (F) Solicitation of a minor to practice prostitution;
- 7 (4) A violation of privacy under section 711-1110.9;
- 8 (5) An act, as described in chapter 705, that is an
9 attempt, criminal solicitation, or criminal conspiracy
10 to commit one of the offenses designated in paragraphs
11 (1) through (4);
- 12 [~~(5)~~] (6) A criminal offense that is comparable to or that
13 exceeds a sexual offense as defined in paragraphs (1)
14 through [~~(4) or any~~] (5); or
- 15 (7) Any federal, military, [~~or~~] out-of-state, tribal, or
16 foreign conviction for any offense that under the laws
17 of this State would be a sexual offense as defined in
18 paragraphs (1) through [~~(4); or~~] (6).
- 19 [~~(6)~~] ~~An act, as described in chapter 705, that is an~~
20 ~~attempt, criminal solicitation, or criminal conspiracy~~
21 ~~to commit one of the offenses designated in paragraphs~~
22 ~~(1) through (5).]~~"



1 SECTION 4. Section 846E-1, Hawaii Revised Statutes, is
2 amended by repealing the definitions of "mental abnormality",
3 "personality disorder", and "predatory".

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

7 ~~"Personality disorder" shall have the same meaning as the
8 term is used in the Diagnostic and Statistical Manual of Mental
9 Health Disorders: DSM IV, American Psychiatric Association,
10 Diagnostic and Statistical Manual of Mental Disorders (4th ed.
11 1994).~~

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

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

17 SECTION 5. Section 846E-2, Hawaii Revised Statutes, is
18 amended as follows:

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

20 "(a) A covered offender shall register with the attorney
21 general and comply with the provisions of this chapter for life
22 or for a shorter period of time as provided in this chapter.

1 Registration under this subsection is required whenever the
2 covered offender, whether or not a resident of this State,
3 remains in this State for more than ten days or for an aggregate
4 period exceeding thirty days in one calendar year. A covered
5 offender shall be eligible to petition the court in a civil
6 proceeding for an order that the covered offender's registration
7 requirements under this chapter be terminated, as provided in
8 section 846E-10."

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

10 "(d) Registration information for each covered offender
11 shall include a signed statement by the covered offender
12 containing:

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

20 (2) The actual address and telephone number of the covered
21 offender's permanent residence or [~~any current,~~
22 ~~temporary address where the covered offender resides,~~]



1 the address of the covered offender's current
2 temporary residence, or if an address is not
3 available, a description of the place or area in which
4 the covered offender resides for at least thirty
5 nonconsecutive days within a sixty-day period, and for
6 each address or place where the covered offender
7 resides, how long the covered offender has resided
8 there;

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

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

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

20 (6) Any cell phone number and other designations used for
21 routing or self-identification in telephonic
22 communications;



- 1 (7) Names and, if known, actual business addresses of
2 current and known future employers, including
3 information for any place where the covered offender
4 works as a volunteer or otherwise works without
5 remuneration, and the starting and ending dates of any
6 such employment;
- 7 (8) For covered offenders who may not have a fixed place
8 of employment, a description of the places where such
9 a covered offender works, such as information about
10 normal travel routes or the general area or areas in
11 which the covered offender works;
- 12 (9) Professional licenses held by the covered offender;
- 13 (10) Names and actual addresses of current and known future
14 educational institutions with which the covered
15 offender is affiliated in any way, whether or not
16 compensated, including but not limited to affiliation
17 as a faculty member, an employee, or a student, and
18 the starting and ending dates of any such affiliation;
- 19 (11) The year, make, model, color, and license or
20 registration or other identifying number of all
21 vehicles, including automobiles, watercrafts, and
22 aircrafts, currently owned or operated by the covered



1 offender and the address or description of the place
2 or places where the covered offender's vehicle or
3 vehicles are habitually parked, docked, or otherwise
4 kept;

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

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

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

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

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

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



1 "(a) Each person, or that person's designee, in charge of
2 a jail, prison, hospital, school, or other institution to which
3 a covered offender has been committed pursuant to a conviction,
4 or an acquittal or finding of unfitness to proceed pursuant to
5 chapter 704, for a covered offense, and each judge, or that
6 judge's designee, who continues bail for or releases a covered
7 offender following [~~a guilty verdict or a plea of guilty or nolo~~
8 ~~contendere,~~] sentencing and the entry of a judgment of
9 conviction, who releases a covered offender on probation or who
10 discharges a covered offender upon payment of a fine, and each
11 agency having jurisdiction, shall, prior to the discharge,
12 parole, or release of the covered offender:

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



- 1 (4) Inform the covered offender that, if at any time the
2 covered offender changes residence to another state,
3 the covered offender shall register the new address
4 with the attorney general and also with a designated
5 law enforcement agency in the new state, if the new
6 state has a registration requirement, within the
7 period of time mandated by the new state's sex
8 offender registration laws;
- 9 (5) Obtain and verify fingerprints and a photograph of the
10 covered offender, if these have not already been
11 obtained or verified in connection with the offense
12 that triggers the registration;
- 13 (6) Require the covered offender to sign a statement
14 indicating that the duty to register has been
15 explained to the covered offender; and
- 16 (7) Give one copy of the signed statement and one copy of
17 the registration information to the covered offender."

18 SECTION 7. Section 846E-5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§846E-5 Periodic verification of registration**
21 **information.** [~~Unless the covered offender is incarcerated or~~
22 ~~has registered with a designated law enforcement agency after~~



1 ~~establishing residence in another state, on the first day of~~
2 ~~every ninety day period following the covered offender's initial~~
3 ~~registration date:~~

4 ~~(1) The]~~ (a) For the covered offender who has registered
5 a permanent residence address to which the United States Postal
6 Service will deliver mail or a permanent residence and a
7 registered post office box, during the first week of the months
8 of January, April, July, and October of every year, the attorney
9 general shall mail a nonforwardable verification form to the
10 last reported permanent residence address or post office box of
11 the covered offender[+]. Upon receipt of the verification form:

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

17 ~~[(3)]~~ (2) The covered offender shall mail the signed and
18 completed verification form to the attorney general
19 within ten days after receipt of the form[+~~and~~

20 ~~(4) If the covered offender fails to mail the verification~~
21 ~~form to the attorney general within ten days after~~
22 ~~receipt of the form, the covered offender shall be in~~

1 ~~violation of this chapter, unless the covered offender~~
2 ~~proves that the covered offender has not changed the~~
3 ~~residence address.~~

4 ~~This section shall become effective on July 1, 1998].~~

5 (b) For the covered offender who has registered:

6 (1) A temporary residence address;

7 (2) A description of a place or area in which the covered
8 offender resides for at least thirty nonconsecutive
9 days within a sixty-day period;

10 (3) No place of residence; or

11 (4) A permanent residence address, to which the United
12 States Postal Service will not deliver mail, and has
13 no registered post office box,

14 during the first week of the months of January, April, July, and
15 October of every year, the covered offender shall report to the
16 chief of police where the covered offender resides, or to such
17 other department or agency that may be designated by the
18 attorney general in rules adopted pursuant to chapter 91 for
19 purposes of administration of this section, and shall review the
20 existing information in the registry that is within the covered
21 offender's knowledge, correct any information that has changed



1 or is inaccurate, and provide any new information that may be
2 required.

3 (c) The periodic verification provisions of this section
4 shall not apply to covered offenders who are incarcerated or
5 have registered with a designated law enforcement agency after
6 establishing residence in another state."

7 SECTION 8. Section 846E-6, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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



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

18 SECTION 9. Section 846E-9, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§846E-9 Failure to comply with covered offender**
21 **registration requirements.** (a) A person commits the offense of
22 failure to comply with covered offender registration



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

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

7 (2) Fails to report in person every five years until
8 June 30, 2009, and beginning on July 1, 2009, once
9 every year, during the thirty-day period following the
10 offender's date of birth, to the chief of police where
11 the covered offender's residence is located, or to
12 such other department or agency designated by the
13 attorney general;

14 (3) While reporting to the chief of police or such other
15 department or agency designated by the attorney
16 general, fails to correct information in the registry
17 within the offender's knowledge that has changed or is
18 inaccurate regarding information required by section
19 846E-2(d)(1) through (12);

20 (4) While reporting to the chief of police or such other
21 department or agency designated by the attorney



- 1 general, fails to provide new information that may be
2 required by section 846E-2(d)(1) through (12);
- 3 (5) While reporting to the chief of police or such other
4 department or agency designated by the attorney
5 general, does not allow the police or other designated
6 department or agency to take a current photograph of
7 the person;
- 8 (6) Fails to register in person with the chief of police
9 having jurisdiction of the area where the covered
10 offender resides or is present within three working
11 days whenever the provisions of section 846E-2(g)
12 require the person to do so;
- 13 (7) Fails to notify the attorney general or the Hawaii
14 criminal justice data center of a change of any of the
15 covered offender's registration information in writing
16 within three working days of the change;
- 17 (8) Provides false registration information to the
18 attorney general, the Hawaii criminal justice data
19 center, or a chief of police;
- 20 (9) Signs a statement verifying that all of the
21 registration information is accurate and current when



- 1 any of the registration information is not
2 substantially accurate and current;
- 3 (10) Having failed to establish a new residence within the
4 ten days while absent from the person's registered
5 residence for ten or more days[+
6 ~~(A) Fails]~~ fails to notify the attorney general in
7 writing within three working days [~~that the~~
8 ~~person no longer resides at the person's~~
9 ~~registered residence; or~~
10 ~~(B) Fails to report to a police station in the State~~
11 ~~by the last day of every month; or]~~ of the
12 covered offender's current residence information;
- 13 (11) Fails to mail or deliver the periodic verification of
14 registration information form to the attorney general
15 within ten days of receipt, as required by section
16 846E-5; provided that it shall be an affirmative
17 defense that the periodic verification form mailed to
18 the covered offender was delivered when the covered
19 offender was absent from the registered address and
20 the covered offender had previously notified the
21 Hawaii criminal justice data center that the covered



1 offender would be absent during the period that the
2 periodic verification form was delivered[-]; or
3 (12) Fails to report to the chief of police where the
4 covered offender resides, or to such other department
5 or agency that may be designated by the attorney
6 general in rules adopted pursuant to chapter 91,
7 during the first week of the months of January, April,
8 July, and October of every year, and verify and update
9 the covered offender's registration information as
10 required by section 846E-5(b).

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

18 ~~(b)~~ (c) Failure to comply with covered offender
19 registration requirements is a class C felony."

20 SECTION 10. Section 846E-10, Hawaii Revised Statutes, is
21 amended as follows:

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



1 "(a) Tier 3 offenses. A covered offender whose covered
2 offense is any of the following offenses shall register for life
3 and, except as provided in subsection (e), may not petition the
4 court, in a civil proceeding, for termination of registration
5 requirements:

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

9 (2) An offense set forth in section 707-720; provided that
10 the offense involves kidnapping of a minor by someone
11 other than a parent;

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

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

17 (5) Any federal, military, ~~[or]~~ out-of-state, tribal, or
18 foreign offense that is comparable to one of the
19 offenses in paragraph (1), (2), or (3)."

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

21 "(c) Tier 2 offenses. A covered offender who has
22 maintained a clean record for the previous twenty-five years,



1 excluding any time the offender was in custody or civilly
2 committed, and who has substantially complied with the
3 registration requirements of this chapter for the previous
4 twenty-five years, or for the portion of that twenty-five years
5 that this chapter has been applicable, and who is not a repeat
6 covered offender may petition the court, in a civil proceeding,
7 for termination of registration requirements; provided that the
8 covered offender's most serious covered offense is one of the
9 following:

- 10 (1) Any offense set forth in section 707-730(1)(c), 707-
11 731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-
12 1202(1)(b), or 712-1203(1)(b), as section 712-
13 1203(1)(b) read prior to its amendment pursuant to
14 section 9 of Act 147, Session Laws of Hawaii 2008;
- 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, [~~e~~] out-of-state, tribal, or
7 foreign offense that is comparable to one of the
8 offenses in paragraph (1), (2), (3), or (4).

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

19 (1) Any offense set forth in section 707-732(1)(d) or (e),
20 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-
21 1202(1)(a), or 712-1203(1);



- 1 (2) An offense set forth in section 707-721 or 707-722;
2 provided that the offense involves unlawful
3 imprisonment of a minor by someone other than a
4 parent;
- 5 (3) An offense set forth in section 707-757 that includes
6 an intent to promote or facilitate the commission of
7 another covered offense as defined in section 846E-1;
- 8 (4) An offense that is an attempt, criminal solicitation,
9 or criminal conspiracy to commit any of the offenses
10 in paragraph (1), (2), or (3);
- 11 (5) Any criminal offense that is comparable to one of the
12 offenses in paragraph (1), (2), (3), or (4); [~~or~~]
- 13 (6) Any federal, military, [~~or~~] out-of-state, tribal, or
14 foreign offense that is comparable to one of the
15 offenses in paragraph (1), (2), (3), or (4) [~~-~~]; or
- 16 (7) Any other covered offense that is not specified in
17 subsection (a) or (c) or paragraph (1), (2), (3), (4),
18 (5), or (6)."

19 SECTION 11. Sections 2, 3, 5, 6, 7, 8, and 10 shall apply
20 to any acts committed prior to, on, or after the effective date
21 of this Act.

1 SECTION 12. Section 9 of this Act does not affect rights
2 and duties that matured, penalties that were incurred, and
3 proceedings that were begun, before the effective date of this
4 Act.

5 SECTION 13. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 14. This Act shall take effect upon its approval.



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.
(SB1016 HD2)

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

