



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE

YOUR REFERENCE

LATE TESTIMONY

POLICE DEPARTMENT
COUNTY OF MAUI

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GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

January 28, 2013

The Honorable Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
The Senate
Hawaii State Capitol
Honolulu, HI 96813

RE: Senate Bill No. 1016, RELATING TO REGISTRATION OF COVERED
OFFENDERS

Dear Chair Hee and Members of the Committee:

The Maui Police Department is in support of SB No. 1016. This bill 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 once per month; and repeals the definitions of "mental abnormality," "personality disorder," and "predatory."

The Maui Police Department is in support of this bill along with several other law enforcement agencies to insure that the public is informed of the location convicted sex offenders that may reside in their community.

This bill also clarifies the reporting procedures of convicted sex offenders and also requires them to report if they may have had comparable foreign convictions and tribal convictions in order to give the public better information and to keep their communities safer.

The Honorable Clayton Hee, Chair
Committee on Judiciary and Labor
January 28, 2013
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The Maui Police Department asks for your support for S.B. No. 1016.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary A. Yabuta', written in a cursive style.

GARY A. YABUTA *per:*
Chief of Police

LATE TESTIMONY

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney
ROBERT D. RIVERA
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TESTIMONY

ON

SB 1016 - RELATING TO THE REGISTRATION OF COVERED OFFENDERS

January 29, 2013

The Honorable Clayton Hee
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

As a member of the Hawaii Law Enforcement Coalition, the Department of the Prosecuting Attorney, County of Maui, SUPPORTS the passage of SB 1016, Relating to the Registration of Covered Offenders.

This bill updates the covered offender registration law set forth in Chapter 846E of the Hawaii Revised Statutes. The result will bring clarity to covered offender requirements, which will help with compliance. It would also assist in the administration of the sex offender registration law.

We ask that the committee PASS SB 1016.

Thank you very much for the opportunity to provide testimony on this bill.

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Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary and Labor

January 29, 2013

S.B. NO. 1016 RELATING TO REGISTRATION OF COVERED OFFENDERS.

Senator Hee and Members of the Committee

S.B. 1016 would make significant changes to Chapter 846E which covers the registration of sex offenders in Hawaii. We note a number of concerns with various of the proposed changes.

We oppose the proposed definitions in Section 2 at page 4 of "permanent residence" and "temporary residence" that would exclude "motor vehicles". It is a sad fact that some of our citizens reside in their vehicles. Some move the vehicles among different locations. Some are allowed by relatives or friends to keep the vehicle on private property. Some of these citizens maintain an ongoing address where they pick up mail, including post office boxes or the private address at which their vehicle is parked. It should be noted that in some cases it is the very fact that the citizen is a registered sex offender that prevents the person from obtaining other housing such as rental property or living with relatives. The simple fact of residing in one's car should not deny the status of a "permanent" (i.e. will live there for at least the next 6 months) or "temporary" (will live there for less than six months) residence status.

We also question the term "federally recognized" in the definition of "tribal conviction" at page 4. We believe that should be more clearly stated as "recognized by the government of the United States" so that it is not confused with a tribe recognized by the "federal" government of a foreign country.

We do not oppose the additional language in Section 3 at pages 5-6 which would include "tribal" (with the change noted above) or "foreign" (as defined in the bill) conviction with any federal, military, or out-of-state convictions as our statute currently reads. However, we oppose the language proposed in (B) at page 8. line 6 of the Bill which would include the following:

"any offense that subjected the offender to sex offender registration or public notification, or both, in the other state or jurisdiction of conviction, or would have if the offender had been a resident of that state or jurisdiction".

This is very confusing language, at best, and provides that if a foreign jurisdiction, for example, required persons convicted anywhere in the world to be registered or have public notification, those persons would come under Hawaii's law as well. That undermines the protection present in the proposed definition of "foreign" that would only apply our law to those countries that have "an independent judiciary vigorously enforcing the right to a fair trial" (page 3, line 21).

tribal nations } as recognized by the United States
foreign nations }
foreign nations w/ no rights

LATE TESTIMONY

We particularly oppose the proposal in Section 7 at page 23 that would essentially require homeless citizens, i.e., those without qualifying “permanent” or “temporary” residences to report in person once a month. We appreciate the distinction to have the citizen report in person since there is no address to which to send the written update to be filled out. But we disagree that such an individual should be required to report 3 TIMES AS OFTEN as those who have homes. What this essentially means is that poor people will be treated differently and more severely than people with means.

For the same reason, we oppose the new language in Section 9, page 28, subsections (12) and (13) which would make it a violation of the reporting law not to appear once a month and not to disclose “every location where the covered offender has slept in the previous month”. To ask homeless offenders who may move among many locations within one month’s time due to being barred by law enforcement or having to move for one’s safety, to recall every location, and be subject to prosecution if they do not, is harsh and unnecessary.

Finally, to make it an “affirmative” defense to a violation that the offender was either in custody or had been judicially committed to Hawaii State Hospital is ridiculous. Surely, the State with all its resources, can and should check to see whether someone was in custody or civilly committed during a time period in question before filing charges that result in arrest and pre-trial incarceration.

Regarding the proposed changes in Section 10 at pages 30 and 32, we would have no objection to the addition of “tribal” and “foreign” with the addition of the changes we have suggested above.

For the reasons stated, we oppose this legislation in its current form. Thank you for the opportunity to comment on this bill.