

JAN 18 2013

---

---

# A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. Chapter 706, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§706-A Sentence of imprisonment for class A felony  
5 sexual offenses against children; mandatory minimum sentencing.

6 (a) Notwithstanding any provision of chapter 706 to the  
7 contrary, a person convicted of sexual assault in the first  
8 degree under section 707-730(1)(b) or 707-730(1)(c) shall be  
9 sentenced to a mandatory minimum term of imprisonment, without  
10 possibility of parole, for a period of twenty five years."

11 SECTION 2. Chapter 846E, Hawaii Revised Statutes, is  
12 amended by adding a new part to be appropriately designated and  
13 to read as follows:

14 "PART

15 ELECTRONIC MONITORING FOR CERTAIN SEX OFFENDERS

16 §846E-A Electronic monitoring; obligation. (a) In  
17 addition to the registration requirements of this chapter, a  
18 covered offender shall also be subject to electronic monitoring



1 as mandated by this part. The obligation to be subject to  
2 electronic monitoring shall run concurrently with the obligation  
3 to provide sex offender registration.

4 (b) The attorney general shall use a system of active  
5 electronic monitoring that identifies the location of a  
6 monitored offender and that can produce, upon request, reports  
7 or records of the offender's presence near or within a crime  
8 scene or prohibited area or the offender's departure from  
9 specified geographic limitations, produces an audible alarm upon  
10 damage of a degree that would render location identification  
11 functions inoperative, and may contract with a private vendor to  
12 meet the mandate of this part.

13 **§846E-B Periodic maintenance of electronic monitoring**  
14 **device; damage.** (a) Unless the covered offender is  
15 incarcerated or has registered with a designated law enforcement  
16 agency after establishing residence in another state, every five  
17 years, the covered offender shall report in person to the  
18 attorney general for periodic maintenance of the electronic  
19 monitoring device.

20 (b) In the event of damage to the electronic monitoring  
21 device of a degree that would render location identification  
22 inoperative, the covered offender shall immediately inform the



1 attorney general's office of such damage and, within four hours  
2 of such damage, report in person to the attorney general, or  
3 their designee, for repair or replacement of the device.

4 **§846E-C Termination of electronic monitoring**

5 **requirements.** (a) A successful petition for termination of  
6 registration requirements under section 846E-10 shall also  
7 terminate all electronic monitoring requirements.

8 (b) No separate petition for termination of electronic  
9 monitoring requirements shall be made to a court."

10 SECTION 3. Section 846E-9, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§846E-9 Failure to comply with covered offender**  
13 **registration requirements; electronic monitoring requirements.**

14 (a) A person commits the offense of failure to comply with  
15 covered offender registration and electronic monitoring  
16 requirements if the person is required to register under this  
17 chapter and the person intentionally, knowingly, or recklessly:

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



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



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



- 1 longer resides at the person's registered  
2 residence; or
- 3 (B) Fails to report to a police station in the State  
4 by the last day of every month; ~~[or]~~
- 5 (11) Fails to mail or deliver the periodic verification of  
6 registration information form to the attorney general  
7 within ten days of receipt, as required by section  
8 846E-5; provided that it shall be an affirmative  
9 defense that the periodic verification form mailed to  
10 the covered offender was delivered when the covered  
11 offender was absent from the registered address and  
12 the covered offender had previously notified the  
13 Hawaii criminal justice data center that the covered  
14 offender would be absent during the period that the  
15 periodic verification form was delivered; or
- 16 (12) Fails to appear before the attorney general to submit  
17 to electronic monitoring;
- 18 (13) Fails to report in person every five years before the  
19 attorney general, or their designee, for maintenance  
20 on the electronic monitoring device;
- 21 (14) Fails to report in person, within four hours, before  
22 the attorney general, or their designee, for repair or



1 replacement of the electronic monitoring device in the  
2 event of damage to the electronic monitoring device of  
3 a degree that would render location identification  
4 inoperative; or

5 (15) Inflicts damage to the electronic monitoring device to  
6 a degree that would render location identification  
7 inoperative.

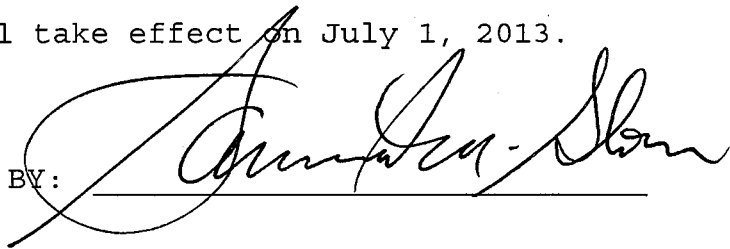
8 [~~b~~] (c) Failure to comply with covered offender  
9 registration and electronic monitoring requirements is a class  
10 [E] A felony, provided the court shall sentence the person who  
11 has been convicted of this offense to a minimum term of  
12 imprisonment of not less than twenty years without the  
13 possibility of probation or suspension of sentence."

14 SECTION 4. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun, before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2013.

20

INTRODUCED BY: 



# S.B. NO. 799

**Report Title:**

Electronic monitoring; sexual assault of a minor; sentencing.

**Description:**

Establishes mandatory minimum sentence of twenty-five years for felony sexual assault of a minor. Adds requirement of electronic monitoring to covered offenders under chapter 846E. Jessica's Law.

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

