



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 1042, S.D. 1, RELATING TO COVERED OFFENDER REGISTRATION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Friday, March 12, 2021 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325, Via Videoconference

TESTIFIER(S): Clare E. Connors, Attorney General, or
Amy Murakami, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The purpose of this bill is to create a clear requirement that anyone who has been designated as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another state or jurisdiction, and who, as a result of that designation was or would be subject to registration in that state, or would be if residing in that state, must register as a covered offender in the State of Hawaii. This requirement would apply to anyone who resides in or maintains a residence in Hawaii as well as anyone who remains in Hawaii for more than ten days or who remains in Hawaii for an aggregate period exceeding thirty days in one calendar year. The bill also clarifies how a person who registers under this requirement may petition to terminate registration after a minimum of ten years.

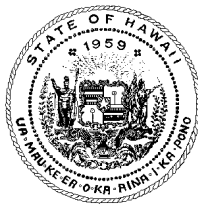
Currently, under section 846-2(b), Hawaii Revised Statutes (HRS), a person who establishes or maintains a residence in Hawaii and who has been designated a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another state or jurisdiction, must register with the Attorney General but may petition the Attorney General to terminate registration requirements if the person's out-of-state convictions upon which the sexual offender designation was established are not covered offenses under the

laws of Hawaii. A person who remains in Hawaii for more than ten days or who remains in Hawaii for an aggregate period exceeding thirty days in one calendar year is required by section 846E-2(a), HRS, to register only if the person's out-of-state convictions are covered offenses under the laws of Hawaii. In Doe v. Connors, 145 Hawaii 469, 454 P.3d 410 (2019), the Hawaii Supreme Court held that a person required to register as a sex offender in the State of Washington who was not a Hawaii resident but who intended to remain in Hawaii for more than ten days did not have to register as a sex offender while in Hawaii because his conviction of "Communication with a Minor for an Immoral Purpose" was not a covered "sexual offense," as defined by 846E-1, HRS. Specifically, the court determined that the offense of "Communication with a Minor for an Immoral Purpose" was not precisely the "solicitation of a minor . . . to engage in sexual conduct" or "criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759" required for the Washington offense to be considered a covered offense under Hawaii law. Id. at 417-18, 454 P.3d at 476-77.

This bill creates a clear requirement that anyone who is required to register as a covered offender or is designated a sex offender in another state, must register as a covered offender while residing or maintaining a residence in Hawaii or while in Hawaii for more than ten days or for an aggregate period exceeding thirty days in one calendar year, whether or not the conviction upon which the registration is based in the other state or jurisdiction precisely matches a Hawaii offense. The bill also clarifies how a person may seek termination of such registration. This bill is consistent with the purpose and intent of covered offender registration and is necessary for public safety because it would require all offenders to register and it would prevent non-resident, out-of-state offenders from avoiding registration requirements. It clarifies that anyone who is a registered sex offender anywhere also needs to register in Hawaii if they intend to be in the State for more than ten days.

We respectfully ask this Committee to pass this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 1042, SENATE DRAFT 1
RELATING TO COVERED OFFENDER REGISTRATION.

by
Max N. Otani, Director

House Committee on Judiciary and Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Friday, March 12, 2021; 2:00 p.m.
Via Videoconference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

Senate Bill (SB) 1042, Senate Draft (SD) 1 seeks to repeal provisions allowing persons designated as covered offenders in another state or jurisdiction to petition the Attorney General for termination of registration requirements upon demonstration that the out of state convictions are not covered offenses in the State of Hawaii, and addresses other issues related to requirements for covered offenders to register pursuant the appropriate Hawai'i Revised Statutes (HRS).

The Department of Public Safety (PSD) fully supports this measure as its intent is to help ensure the public's safety by requiring covered offenders to register. This measure also provides an appropriate avenue of redress for covered offenders to follow by petitioning for termination of registration requirements.

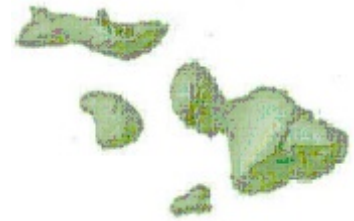
Thank you for the opportunity to present this testimony in strong support of SB 1042, SD 1.

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

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TESTIMONY
ON
S.B. 1042 SD 1 RELATING TO
COVERED OFFENDER REGISTRATION

March 11, 2021

The Honorable Mark M. Nakashima
Chair
The Honorable Scot Z. Matayoshi
Vice Chair
and Members of the Committee on Judiciary & Hawaiian Affairs

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning S.B. 1042 SD1, Relating to Covered Offender Registration. Specifically, we would like to express our support for S.B. 1042 SD1.

We are concerned that the current laws governing sex offender registration may not require a registered sex offender from outside Hawai'i to register here, so long as their conviction does not precisely match one of the Hawai'i offenses requiring registration. The Doe v. Connors case effectively highlights this issue.

In Doe, the Hawai'i Supreme Court ruled that a registered sex offender from the State of Washington who wished to vacation in Hawai'i for more than ten days was not required to register as such because the information about his conviction did not appear to precisely match a Hawai'i offense requiring registration. The conviction in question stemmed from an incident where the offender communicated with a minor under the age of 14¹ "for an immoral purpose of a sexual nature."

In our view, another state's determination that a sex offender must register as such is sufficient cause for Hawai'i to require that offender to register here whenever they intend to remain within our State for more than 10 days.

¹Doe v. Connors, 145 Hawai'i 469, 471, 454 P.3d 410, 412 (2019)

For these reasons, the Department of the Prosecuting Attorney, County of Maui supports the passage of S.B. 1042 SD1. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

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