



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

DATE: Tuesday, February 16, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Via Videoconference

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

Chair Nishihara 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.

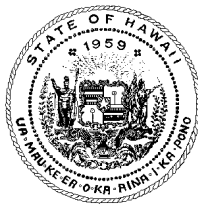
Currently, under section 846-2(b), Hawaii Revised Statutes (HRS), a person who establishes or maintains a residence in Hawaii and who has been designated a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation 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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MAX N. OTANI
DIRECTOR

Maria C. Cook
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Tommy Johnson
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Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 1042
RELATING TO COVERED OFFENDER REGISTRATION.

by
Max N. Otani, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator J. Kalani English, Vice Chair
Tuesday, February 16, 2021; 1:00 p.m.
Via Videoconference

Chair Nishihara, Vice Chair English, and Members of the Committee:

Senate Bill (SB) 1042 seeks to amend Sections 846E-2(b) and 846E-10, Hawaii Revised Statutes (HRS), to enable the Hawaii sex offender registration laws to be more readily applied to persons designated as covered offenders in another state of jurisdiction, who are long term visitors to Hawaii. The bill also provides appropriate avenues of redress for such covered offenders.

The Department of Public Safety strongly supports this measure, as its passage will help to ensure the public's safety by requiring covered offenders convicted in other states to register as covered offenders in Hawaii.

Thank you for the opportunity to present this testimony.



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 12, 2021

The Honorable Clarence K. Nishihara, Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
Thirty-First Legislature 2021
Hawaii State Capitol
415 South Beretania Street, Room 409
Honolulu, HI 96813

RE: SENATE BILL 1042 RELATING TO COVERED OFFENDER REGISTRATION

Dear Chair Nishihara and Committee Members:

The Maui Police Department strongly SUPPORTS the passage of SB 1042.

This act will repeal the current provisions which allow out-of-state sex offenders exemptions from having to register upon entering Hawaii. As written, the act will require all sex offenders convicted out-of-state to register as if it occurred in Hawaii.

This will create greater accountability for the offender and also help law enforcement track or investigate any crimes committed by these offenders while in the State of Hawaii, regardless of how long they stay or reside here.

Accordingly, the Maui Police Department requests SB 1042 be PASSED. Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Acting Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



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

LATE

February 16, 2021

The Honorable Clarence K. Nisihara
Chair
The Honorable J. Kalani English
Vice Chair
and Members of the Committee on Public Safety, Intergovernmental and Military Affairs

Chair Nisihara, Vice Chair English, and Members of the Committee:

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

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 said offender to register here whenever they intend to remain within our State for more than 10 days. Furthermore, we feel that any privacy concerns by

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

a registered sex offender are sufficiently mitigated by the fact that the registration information is not made available to the public pursuant to H.R.S. § 846E-3(h).

For these reasons, the Department of the Prosecuting Attorney, County of Maui supports the passage of S.B. 1042. 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.