
A BILL FOR AN ACT

RELATING TO COVERED OFFENDER REGISTRATION.

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

1 SECTION 1. The legislature finds that sex offenders
2 present an extreme threat to public safety due to high rates of
3 sexual recidivism. To mitigate this threat, Hawaii established
4 covered offender registration laws to require the public release
5 of relevant information concerning the presence of convicted sex
6 offenders in the community.

7 The legislature further finds that there are certain gaps
8 under the current registration laws for offenses committed
9 against minors. For example, the public disclosure of
10 registration information is not required for an offender who,
11 while acting in a professional capacity, commits the offense of
12 sexual assault in the fourth degree against a minor who is at
13 least sixteen. This omission would allow these sex offenders,
14 who abused their position of trust, power, authority, or
15 supervision to engage in sexual contact with a minor, to evade
16 public detection and continue to prey upon children in the
17 community.



1 Accordingly, the purpose of this Act is to amend the
2 covered offender registration laws to:

3 (1) Include offenders who, while acting in a professional
4 capacity, commit either the offense of sexual assault
5 in the fourth degree or sexual assault in the second
6 degree against a minor who is at least sixteen years
7 old;

8 (2) Require public disclosure for covered offenses that
9 are committed against minors, regardless of whether
10 the conviction was for a first-time misdemeanor
11 offense;

12 (3) Require a person who is required to report every year
13 under the covered offender registration requirements
14 to report during the thirty-day period following the
15 offender's birthday, rather than date of birth; and

16 (4) Specify how certain covered offenses are to be tiered
17 for purposes of seeking termination of registration
18 requirements.

19 SECTION 2. Section 846E-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "sexual offense" to read
21 as follows:



- 1 ""Sexual offense" means an offense that is:
- 2 (1) Set forth in section 707-730(1), 707-731(1), 707-
- 3 732(1), 707-733(1) (a) [~~7~~] and (d), 707-733.6, 712-
- 4 1200.5(4), 712-1202(1), or 712-1203(1), but excludes
- 5 conduct that is criminal only because of the age of
- 6 the victim, as provided in section 707-730(1) (b) [~~7~~] or
- 7 [~~section~~] 707-732(1) (b), if the perpetrator is under
- 8 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;



- 1 (D) Production, distribution, or possession of child
2 pornography chargeable as a felony under section
3 707-750, 707-751, or 707-752;
- 4 (E) Electronic enticement of a child chargeable under
5 section 707-756 or 707-757 if the offense was
6 committed with the intent to promote or
7 facilitate the commission of another covered
8 offense as defined in this section; or
- 9 (F) Commercial sexual exploitation of a minor in
10 violation of section 712-1209.1;
- 11 (4) A violation of privacy under section 711-1110.9;
- 12 (5) An act, as described in chapter 705, that is an
13 attempt, criminal solicitation, or criminal conspiracy
14 to commit one of the offenses designated in paragraphs
15 (1) through (4);
- 16 (6) A criminal offense that is comparable to or that
17 exceeds a sexual offense as defined in paragraphs (1)
18 through (5); or
- 19 (7) Any federal, military, out-of-state, tribal, or
20 foreign conviction for any offense that under the laws



1 of this State would be a sexual offense as defined in
2 paragraphs (1) through (6)."

3 SECTION 3. Section 846E-3, Hawaii Revised Statutes, is
4 amended by amending subsection (h) to read as follows:

5 "(h) If a covered offender has been convicted of only one
6 covered offense and that covered offense is a misdemeanor, and
7 was not committed against a minor, the covered offender shall
8 not be subject to the public access requirements set forth in
9 this section."

10 SECTION 4. Section 846E-9, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

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

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

20 (2) Fails to report in person every five years until
21 June 30, 2009, and beginning on July 1, 2009, once



1 every year, during the thirty-day period following the
2 offender's [~~date of birth,~~] birthday to the chief of
3 police where the covered offender's residence is
4 located, or to such other department or agency
5 designated by the attorney general;

6 (3) While reporting to the chief of police or such other
7 department or agency designated by the attorney
8 general, fails to correct information in the registry
9 within the offender's knowledge that has changed or is
10 inaccurate regarding information required by section
11 846E-2(d) (1) through (12);

12 (4) While reporting to the chief of police or such other
13 department or agency designated by the attorney
14 general, fails to provide new information that may be
15 required by section 846E-2(d) (1) through (12);

16 (5) While reporting to the chief of police or such other
17 department or agency designated by the attorney
18 general, does not allow the police or other designated
19 department or agency to take a current photograph of
20 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 fails to notify the
20 attorney general in writing within three working days



1 of the covered offender's current residence
2 information;
3 (11) Fails to mail or deliver the periodic verification of
4 registration information form to the attorney general
5 within ten days of receipt, as required by section
6 846E-5; provided that it shall be an affirmative
7 defense that the periodic verification form mailed to
8 the covered offender was delivered when the covered
9 offender was absent from the registered address and
10 the covered offender had previously notified the
11 Hawaii criminal justice data center that the covered
12 offender would be absent during the period that the
13 periodic verification form was delivered; or
14 (12) Fails to report to the chief of police where the
15 covered offender resides, or to such other department
16 or agency that may be designated by the attorney
17 general in rules adopted pursuant to chapter 91,
18 during the first week of the months of January, April,
19 July, and October of every year, and verify and update
20 the covered offender's registration information as
21 required by section 846E-5(b)."



1 SECTION 5. Section 846E-10, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) Tier 2 offenses. A covered offender who has
4 maintained a clean record for the previous twenty-five years,
5 excluding any time the offender was in custody or civilly
6 committed, and who has substantially complied with the
7 registration requirements of this chapter for the previous
8 twenty-five years, or for the portion of that twenty-five years
9 that this chapter has been applicable, and who is not a repeat
10 covered offender may petition the court, in a civil proceeding,
11 for termination of registration requirements; provided that the
12 covered offender's most serious covered offense is one of the
13 following:

14 (1) Any offense set forth in section 707-730(1)(c),
15 707-731(1)(c) [~~7~~] or (d), 707-732(1)(c), 707-750, 707-
16 751, 712-1202, or 712-1203(1)(b), as section 712-
17 1203(1)(b) read before its amendment pursuant to
18 section 9 of Act 147, Session Laws of Hawaii 2008;

19 (2) An offense set forth in section 707-720; provided that
20 the charging document for the offense for which there



1 has been a conviction alleged intent to subject the
2 victim to a sexual offense;

3 (3) An offense set forth in section 707-756 that includes
4 an intent to promote or facilitate the commission of
5 another felony covered offense as defined in section
6 846E-1;

7 (4) An offense that is an attempt, criminal solicitation,
8 or criminal conspiracy to commit any of the offenses
9 in paragraph (1), (2), or (3);

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

12 (6) Any federal, military, out-of-state, tribal, or
13 foreign offense that is comparable to one of the
14 offenses in paragraph (1), (2), (3), or (4).

15 (d) Tier 1 offenses. A covered offender who has
16 maintained a clean record for the previous ten years, excluding
17 any time the offender was in custody or civilly committed, and
18 who has substantially complied with the registration
19 requirements of this chapter for the previous ten years, or for
20 the portion of that ten years that this chapter has been
21 applicable, and who is not a repeat covered offender may



1 petition the court, in a civil proceeding, for termination of
2 registration requirements; provided that the covered offender's
3 most serious covered offense is one of the following:

4 (1) Any offense set forth in section 707-732(1)(d), (e),
5 or (f); 707-733(1)(a) [~~r~~] or (d); 707-752; 707-759;
6 711-1110.9; 712-1203(1); or 712-1209.1;

7 (2) An offense set forth in section 707-721 or 707-722;
8 provided that the offense involves unlawful
9 imprisonment of a minor by someone other than a
10 parent;

11 (3) An offense set forth in section 707-757 that includes
12 an intent to promote or facilitate the commission of
13 another covered offense as defined in section 846E-1;

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

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

19 (6) Any federal, military, out-of-state, tribal, or
20 foreign offense that is comparable to one of the
21 offenses in paragraph (1), (2), (3), or (4); or



1 (7) Any other covered offense that is not specified in
2 subsection (a) or (c) or paragraph (1), (2), (3), (4),
3 (5), or (6)."

4 SECTION 6. This Act shall not affect rights and duties
5 that matured, penalties and forfeitures that were incurred, and
6 proceedings that were begun before its effective date.

7 SECTION 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 3000.



Report Title:

Covered Offender Registration; Sexual Offense; Public Access;
Tiered Offenses

Description:

Amends covered offender registration laws to include offenders who, while acting in a professional capacity, commit either the offense of sexual assault in the fourth degree or sexual assault in the second degree against a minor who is at least sixteen years old. Provides that the exception to public access requirements does not apply when the covered offense was committed against a minor. Requires a person who is required to report every year under the covered offender registration requirements to report during the thirty-day period following the offender's birthday, rather than from the offender's actual date of birth. Specifies how certain covered offenses are to be tiered for purposes of seeking termination of registration requirements. Effective 7/1/3000. (HD1)

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

