

**ACT 234**

S.B. NO. 2698

A Bill for an Act Relating to Chapter 846E, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 846E-2, Hawaii Revised Statutes, is amended to read as follows:

**“§846E-2 Registration requirements.** (a) A sex offender shall register with the attorney general and comply with the provisions of this chapter for life.

(b) Registration information for each sex offender shall consist of a recent photograph, verified fingerprints, and a signed statement by the sex offender containing:

- (1) Name and all aliases used by the sex offender or under which the sex offender has been known and other identifying information, including date of birth, social security number, sex, race, height, weight, and hair and eye color;
- (2) The legal address and telephone number of the sex offender’s residence or mailing address, or any current, temporary address where the sex offender resides, and for each address how long the sex offender has resided there;
- (3) The legal address and telephone number where the sex offender is staying for a period of more than ten days, if other than the stated residence;
- (4) The future address and telephone number where the sex offender is planning to reside, if other than the stated residence;
- (5) Names and legal addresses of current and known future employers and the starting and ending dates of any such employment;
- (6) Names and legal addresses of current and known future educational institutions with which the sex offender is affiliated as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;
- ~~[(6)]~~ (7) The year, make, model, color, and license number of all vehicles currently owned or operated by the sex offender;
- ~~[(7)]~~ (8) A summary of the criminal offenses against victims who were minors and sexually violent offenses for which the sex offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704;
- ~~[(8)]~~ (9) A statement indicating whether the sex offender has received or is currently receiving treatment for mental abnormality or personality disorder;
- ~~[(9)]~~ (10) A statement indicating whether the sex offender is a United States citizen; and
- ~~[(10)]~~ (11) Any additional identifying information about the sex offender.”

SECTION 2. Section 846E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§846E-3 Access to registration information.** (a) Registration information shall be disclosed as follows:

- (1) The information shall be disclosed to law enforcement agencies for law enforcement purposes;
- (2) The information shall be disclosed to government agencies conducting confidential background checks;
- (3) The attorney general and any county police department shall release relevant information that is necessary to protect the public concerning a specific person required to register under this chapter; provided that the identity of a victim of an offense that requires registration under this chapter shall not be released.

(b) For purposes of this section, “relevant information that is necessary to protect the public” means:

- (1) Name and all aliases used by the sex offender or under which the sex offender has been known;
- (2) The street name and zip code where the sex offender resides and how long the sex offender has resided there;
- (3) The street name and zip code where the sex offender is staying for more than ten days, if other than the stated residence;
- (4) The future street name and zip code, if known, where the sex offender is planning to reside, if other than the stated residence;
- (5) The street name and zip code of the sex offender's current locations of employment;
- (6) Names and legal addresses of current and known future educational institutions with which the sex offender is affiliated as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;
- [(6)] (7) The year, make, model, color, and license number of all vehicles currently owned or operated by the sex offender;
- [(7)] (8) A brief summary of the criminal offenses against victims who were minors and the sexually violent offenses for which the sex offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704; and
- [(8)] (9) A recent photograph of the sex offender.

(c) Relevant information that is necessary to protect the public shall be collected for purposes of making it available to the general public, and a sex offender shall have a diminished expectation of privacy in the information.

(d) Prior to public release of a sex offender's relevant information under subsection (f), the State shall petition the court for an order permitting its release. The petition shall be filed with the court in which the offense was prosecuted, or, in the case where the offense did not occur in the State, in the circuit of the sex offender's residence with the court for which jurisdiction would be proper had the offense occurred in this State. The State shall have the burden of proving, by a preponderance of the evidence, that the sex offender is required to register under this chapter. Proof by the State shall give rise to a presumption that public release of relevant information is necessary to protect the public. The sex offender shall be given the opportunity to present evidence to rebut the presumption and to show that the offender does not represent a threat to the community and that public release of relevant information is not necessary.

If the court determines that public release of relevant information is necessary to protect the public, the court shall issue an order for the release. The order shall set the time duration of public release of relevant information, which shall be for a minimum period of ten years, unless any one or more of the factors listed in paragraph (2), (4), (5), or (6) applies. If any one or more of these factors apply, then the time duration of the public release shall be for the life of the sex offender. Upon petition by the sex offender, the court may reconsider its determination of lifetime public release; provided that the sex offender may petition the court once every ten years. The court may relieve the sex offender from the determination of lifetime public release upon written findings that the offender does not present a threat to the community and that public release is no longer necessary.

The court in making its determination shall consider the following factors:

- (1) The offense involved the death or serious bodily injury of another person;
- (2) The offense resulted in sentencing under the terms of section 706-606.5, 706-660.2, or 706-661;
- (3) The offender has inexcusably failed to comply with terms and conditions of probation or parole;

- (4) The victim was twelve years of age or younger at the time of the offense;
- (5) The offender either prior to or subsequent to the offense requiring registration under this chapter, has been convicted, found unfit to proceed, or acquitted due to a physical or mental disease, disorder, or defect, of a sexual offense or an offense against children, including all offenses occurring in other jurisdictions;
- (6) The offender has been convicted, found unfit to proceed, or acquitted due to a physical or mental disease, disorder, or defect, of a sexual assault as defined in section 707-730(1)(a) or an offense that is comparable in another jurisdiction;
- (7) The offender who has inexcusably failed to register as a sex offender or who is otherwise not in compliance with this chapter; and
- (8) The offender has been convicted of any crime since the conviction requiring the offender's registration.

(e) Subsections (d) and (f) shall not apply to offenders who have been convicted of a single misdemeanor sexual offense. Offenders convicted of multiple sexual offenses shall be subject to subsections (d) and (f).

[(d)] (f) The release of relevant information that is necessary to protect the public shall be accomplished by public access to a file containing the relevant information on each registered sex offender, a copy of which shall be provided for inspection upon request at the Hawaii criminal justice data center and at one or more designated police stations in each county, between the hours of 8:00 a.m. and 4:30 p.m. on weekdays excluding holidays. The chief of police and the attorney general shall provide the relevant information on sex offenders upon payment of reasonable fees. Relevant information on each registered sex offender may also be released from an electronic database maintained by the respective law enforcement agencies that is accessible to users through an interactive computer-based system.”

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2002.

(Approved June 28, 2002.)