

ACT 106

H.B. NO. 2282

A Bill for an Act Relating to Chapter 846E.

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

SECTION 1. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of “repeat covered offender” to read as follows:

““Repeat covered offender” means:

- (1) A person who is or has been convicted at any time, whether before or after May 9, 2005, of more than one covered offense as defined in this section~~;~~, except that a conviction for multiple counts within a single charging document that allege covered offenses against the same victim and that allege the same date of the covered offense against that single victim shall be considered, for the purposes of this definition, a single covered offense; or
- (2) A person who is or has been charged at any time, whether before or after May 9, 2005, with more than one covered offense as defined in this section and who has been, more than once, either:
  - (A) Convicted;
  - (B) Found unfit to proceed pursuant to chapter 704; or
  - (C) Acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704.’’

SECTION 2. Section 846E-2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In addition to the requirement under subsection (a) to register with the attorney general and comply with the provisions of this chapter until a court relieves the covered offender of the registration requirements of this chapter, each covered offender shall also register in person with the chief of police where the covered offender resides or is present. Registration under this subsection is for the purpose of providing the covered offender’s photograph, fingerprints, and registration information. Registration under this subsection is required whenever the covered offender, whether or not a resident of this State, remains in this State for more than ten days or for an aggregate period exceeding thirty days in one calendar year. Covered offenders required to register in person with the chief of police under this subsection shall register no later than three working days after~~[:]~~ the earliest of:

- (1) Arrival in this State;
- (2) Release from incarceration;
- (3) Release from commitment;
- (4) Release on furlough;
- (5) Conviction for a covered offense, unless incarcerated;
- (6) Release on probation;
- ~~[(5)]~~ (7) Placement on parole; or
- ~~[(6)]~~ (8) Arrival in a county in which the covered offender resides or expects to be present for a period exceeding ten days.

In addition to any other requirement to register under this subsection or subsection (a), each covered offender shall report in person every five years to the chief of police where the covered offender resides for purposes of having a new photograph taken.”

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

“(e) After forty years have elapsed after release or sentencing, whichever is later, for covered offenders subject to subsection (c), paragraph (1); thirty years have elapsed after release or sentencing, whichever is later, for covered offenders subject to subsection (c), paragraph (2); twenty-five years have elapsed after release or sentencing, whichever is later, for covered offenders subject to subsection (c), paragraph (3); fifteen years have elapsed after release or sentencing, whichever is later for covered offenders subject to subsection (c), paragraph (4); and ten years have elapsed after release or sentencing, whichever is later, for covered offenders subject to subsection (c), paragraph (5), a covered offender may petition the court in a civil proceeding to terminate public access. In the civil proceeding to terminate public access, the State shall be represented by the attorney general; provided that the attorney general, with the prosecuting agency’s consent, may designate the prosecuting agency that prosecuted the covered offender for the most recent covered offense within the State to represent the State. For covered offenders who have never been convicted of a covered offense within the State of Hawaii, the attorney general shall represent the State; provided that the attorney general, with the prosecuting agency’s consent, may designate the prosecuting agency for the county in which the covered offender resides to represent the State. The court may order this termination upon proof by a preponderance of the evidence that the covered offender:

- (1) Has had no new convictions for covered offenses;
- (2) Is very unlikely to commit a covered offense ever again; and
- (3) Public access to the covered offender’s public information will not assist in protecting the safety of the public or any member thereof;

provided that a denial by the court for relief pursuant to a petition under this section shall preclude the filing of another petition for five years from the date of the last denial.”

SECTION 4. Section 846E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A covered offender required to register under this chapter, who changes any of the covered offender’s registration information after an initial registration with the attorney general, shall notify the attorney general of the new registration information in writing within three working days of the change. For purposes of this section, a person shall be deemed to have established a new residence during any period in which the person is absent from the person’s registered residence for ten or more days. If, at any time, a covered offender required to register under this chapter is absent from the person’s registered residence for ten or more days and fails to establish a new residence within the ten days that the covered offender is absent from their registered residence, the covered offender, in addition to notifying the attorney general in writing within three working days that the covered offender no longer resides at the covered offender’s registered residence, shall also report to any police station in the State by the last day of every month for verification of identity by photograph and fingerprint impression until the covered offender establishes a new residence and notifies the attorney general in writing of the actual address of the new residence. Each time the covered offender reports to a police station, the covered offender shall disclose every location where the covered offender has slept in the previous month. If the new residence is in another state that has a registration requirement, the person shall register with the designated law enforcement agency in the state to which the person moves, within the period of time mandated by the new state’s sex offender registration laws.”

SECTION 5. Section 846E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

- (1) Fails to register with the attorney general by providing to the attorney general or the Hawaii criminal justice data center the person’s registration information;
- (2) Fails to report in person to the chief of police where the covered offender’s residence is located, for purposes of having a new photograph taken within five years after the previous photograph was taken;
- (3) Fails to register in person with the chief of police having jurisdiction of the area where the covered offender resides or is present within three working days whenever the provisions of section 846E-2(e) require the person to do so;
- (4) Fails to notify the attorney general or the Hawaii criminal justice data center of a change of any of the covered offender’s registration information in writing within three working days of the change;
- (5) Provides false registration information to the attorney general, the Hawaii criminal justice data center, or a chief of police;
- (6) Signs a statement verifying that all of the registration information is accurate and current when any of the registration information is not substantially accurate and current; [ø]
- (7) Having failed to establish a new residence within the ten days while absent from the person’s registered residence for ten or more days:

- (A) Fails to notify the attorney general in writing within three working days that the person no longer resides at the person's registered residence; or
  - (B) Fails to report to a police station in the State by the last day of every month; or
- [(7)] (8) Fails to mail or deliver the periodic verification of registration information form to the attorney general within ten days of receipt, as required by section 846E-5; provided that it shall be an affirmative defense that the periodic verification form mailed to the covered offender was delivered when the covered offender was absent from the registered address and the covered offender had previously notified the Hawaii criminal justice data center that the covered offender would be absent during the period that the periodic verification form was delivered.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2006.

(Approved May 17, 2006.)