

ACT 125

S.B. NO. 52

A Bill for an Act Relating to Registration of Sex Offenders.

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 “sexual offense” to read as follows:

““Sexual offense” means an offense that is:

- (1) Set forth in section 707-730(1)(a), 707-730(1)(b), 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a), 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6, 712-1202(1)(a), 712-1202(1)(b), or ~~712-1203(1)(b)~~, 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;
 - (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or
 - (F) Solicitation of a minor to practice prostitution;
- ~~(4)~~ (4) A violation of privacy under section 711-1110.9;
- ~~(4)~~ (5) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through ~~(3)~~ (4) or any federal, military, or out-of-state conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through ~~(3)~~ (4); or
- ~~(5)~~ (6) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through ~~(4)~~ (5).”

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

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

- (1) Any offense set forth in section 707-730(1)(c), 707-731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-1202(1)(b), or 712-1203(1)(b)~~]; as section 712-1203(1)(b) read prior to its amendment pursuant to section 9 of Act 147, Session Laws of Hawaii 2008;~~
- (2) An offense set forth in section 707-720; provided that the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;

- (3) An offense set forth in section 707-756 that includes an intent to promote or facilitate the commission of another felony covered offense as defined in section 846E-1;
 - (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
 - (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
 - (6) Any federal, military, or out-of-state offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4).
- (d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:
- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759[;], 711-1110.9, 712-1202(1)(a), or 712-1203(1);
 - (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;
 - (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
 - (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
 - (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
 - (6) Any federal, military, or out-of-state offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4)."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2011; provided that consistent with the definition of "sex offender" as provided in section 846E-1, Hawaii Revised Statutes, this Act shall apply retroactively to any person who is or was:

- (1) Convicted at any time of a violation of privacy in the first degree under section 711-1110.9, Hawaii Revised Statutes; or
- (2) Charged at any time with a violation of privacy in the first degree under section 711-1110.9, Hawaii Revised Statutes, is currently or was previously found unfit to proceed against the charges, and is currently or was previously released into the community or who is currently or was previously acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704, Hawaii Revised Statutes, and is currently or was previously released into the community.

(Approved June 15, 2011.)