

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

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

SECTION 1. Act 80, Session Laws of Hawaii 2008, amended chapter 846E, Hawaii Revised Statutes, Hawaii's covered offender registration law, to take major steps toward compliance with title I of the federal Adam Walsh Child Protection and Safety Act of 2006, also known as the Sex Offender Registration and Notification Act, and enable the Hawaii covered offender registration program to effectively participate with the nationwide network of sex offender registries.

When declaring the purpose of the Sex Offender Registration and Notification Act, Congress stated: "In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators . . . Congress in this Act establishes a comprehensive national system for the registration of those offenders." The Sex Offender Registration and Notification Act was in response to a number of high profile violent crimes committed by individuals who had previously been convicted of sex crimes but under the old standards were not required to register as sex offenders. Under the Sex Offender Registration and Notification Act, the predecessor sex offender program was repealed. The Sex Offender Registration and Notification Act established new baseline sex offender registry standards for state registries.

The sex offender registration and notification programs serve a number of purposes. The programs provide systems for tracking sex offenders released into our communities. In the event of a violent sex crime, the programs provide law enforcement with information on sex offenders in the area the crime was committed. The information may help law enforcement identify the perpetrator, and may help law enforcement to quickly locate and apprehend the perpetrator. The programs may also deter released offenders from committing other crimes because they require offenders to maintain contact with authorities and provide detailed information regarding their whereabouts. The public notification aspects of the programs allow members of the public access to information on sex offenders in their area, thereby enabling them to take reasonable measures to protect themselves.

The purpose of this Act is to clarify provisions in chapter 846E, Hawaii Revised Statutes, the State's covered offender registration law, address important issues that have come up in the implementation of the covered offender registration law, and continue to make efforts toward Sex Offender Registration and Notification Act compliance.

SECTION 2. Section 806-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Criminal charges may be instituted by written information for a felony when the charge is a class C felony under section 19-3.5 (voter fraud); section 128D-10 (knowing releases); section 132D-14(a)(1), (2)(A), and (3) (relating to penalties for failure to comply with requirements of sections 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep unloaded firearms other than pistols and revolvers); section 134-7(a) and (b) (ownership or possession prohibited); section 134-8 (ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties); section 134-9 (licenses to carry); section 134-17(a) (relating to false information or evidence concerning psychiatric or criminal history); section 134-51 (deadly weapons); section 134-52 (switchblade knives); section 134-53 (butterfly knives); section 188-23 (possession or use of explosives, electrofishing

devices, and poisonous substances in state waters prohibited); section 231-34 (attempt to evade or defeat tax); section 231-36 (false and fraudulent statements); section 245-37 (sale or purchase of packages of cigarettes without stamps); section 245-38 (vending unstamped cigarettes); section 245-51 (export and foreign cigarettes prohibited); section 245-52 (alteration of packaging prohibited); section 291C-12.5 (accidents involving substantial bodily injury); section 291E-61.5 (habitually operating a vehicle under the influence of an intoxicant); section 329-41 (prohibited acts B—penalties); section 329-42 (prohibited acts C—penalties); section 329-43.5 (prohibited acts related to drug paraphernalia); section 329C-2 (manufacture, distribution, or possession with intent to distribute an imitation controlled substance to a person under eighteen years of age); section 346-34(d) (2) and (e) (relating to fraud involving food stamps or coupons); section 346-43.5 (medical assistance frauds; penalties); section 383-141 (falsely obtaining benefits, etc.); section 431:2-403(b)(2) (insurance fraud); section 482D-7 (violation of fineness standards and stamping requirements); section 485A-301 (securities registration requirement); section 485A-401 (broker-dealer registration requirement and exemptions); section 485A-402 (agent registration requirement and exemptions); section 485A-403 (investment advisor registration requirement and exemptions); section 485A-404 (investment advisor representative registration requirement and exemptions); section 485A-405 (federal covered investment adviser notice filing requirement); section 485A-501 (general fraud); section 485A-502 (prohibited conduct in providing investment advice); section 707-703 (negligent homicide in the second degree); section 707-705 (negligent injury in the first degree); section 707-711 (assault in the second degree); section 707-713 (reckless endangering in the first degree); section 707-721 (unlawful imprisonment in the first degree); section 707-726 (custodial interference in the first degree); section 707-757 (electronic enticement of a child in the second degree); section 707-766 (extortion in the second degree); section 708-811 (burglary in the second degree); section 708-812.6 (unauthorized entry in a dwelling); section 708-821 (criminal property damage in the second degree); section 708-831 (theft in the second degree); section 708-833.5 (shoplifting); section 708-835.5 (theft of livestock); section 708-836 (unauthorized control of propelled vehicle); section 708-836.5 (unauthorized entry into motor vehicle in the first degree); section 708-839.5 (theft of utility services); section 708-839.55 (unauthorized possession of confidential personal information); section 708-839.8 (identity theft in the third degree); section 708-852 (forgery in the second degree); section 708-854 (criminal possession of a forgery device); section 708-858 (suppressing a testamentary or recordable instrument); section 708-875 (trademark counterfeiting); section 708-891.5 (computer fraud in the second degree); section 708-892.5 (computer damage in the second degree); section 708-895.6 (unauthorized computer access in the second degree); section 708-8100 (fraudulent use of a credit card); section 708-8102 (theft, forgery, etc., of credit cards); section 708-8103 (credit card fraud by a provider of goods or services); section 708-8104 (possession of unauthorized credit card machinery or incomplete cards); section 708-8200 (cable television service fraud in the first degree); section 708-8202 (telecommunication service fraud in the first degree); section 709-903.5 (endangering the welfare of a minor in the first degree); section 709-906 (abuse of family or household members); section 710-1016.3 (obtaining a government-issued identification document under false pretenses in the first degree); section 710-1016.6 (impersonating a law enforcement officer in the first degree); section 710-1017.5 (sale or manufacture of deceptive identification document); section 710-1018 (securing the proceeds of an offense); section 710-1021 (escape in the second degree); section 710-1023 (promoting prison contraband in the second degree); section 710-1024 (bail jumping in the first degree); section 710-1029 (hindering prosecution

in the first degree); section 710-1060 (perjury); section 710-1072.5 (obstruction of justice); section 711-1103 (riot); section 711-1109.3 (cruelty to animals; fighting dogs); section 711-1110.9 (violation of privacy in the first degree); section 711-1112 (interference with the operator of a public transit vehicle); section 712-1221 (promoting gambling in the first degree); section 712-1222.5 (promoting gambling aboard ships); section 712-1224 (possession of gambling records in the first degree); section 712-1243 (promoting a dangerous drug in the third degree); section 712-1246 (promoting a harmful drug in the third degree); section 712-1247 (promoting a detrimental drug in the first degree); section 712-1249.6 (promoting a controlled substance in, on, or near schools, school vehicles, or public parks); section 803-42 (interception, access, and disclosure of wire, oral, or electronic communications, use of pen register, trap and trace device, and mobile tracking device prohibited); or section [846E-9(b)] 846E-9 (failure to comply with covered offender registration requirements).”

SECTION 3. Section 846E-1, Hawaii Revised Statutes, is amended as follows:

1. By adding seven new definitions to be appropriately inserted and to read:

“Attorney general” means the attorney general of the State of Hawaii, the department of the attorney general, or an authorized representative of the attorney general.

“Chief of police” means the county chief of police, the county police department, or an authorized representative of the chief of police.

“Foreign conviction” means a conviction under the laws of:

- (1) Canada, United Kingdom, Australia, or New Zealand; or
- (2) Any other foreign country, if the United States Department of State, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred and enforces the right to a fair trial to the same or higher standard as the countries listed in paragraph (1).

“Out-of-state conviction” means a conviction in any other state of the United States, the District of Columbia, or the five principal United States territories, including the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

“Permanent residence” means a building, permanent structure or unit therein, or watercraft where the covered offender resides and intends to reside indefinitely, or at least for the next one hundred eighty days, and which the offender owns, rents, or occupies with the consent of the owner.

“Temporary residence” means a building, permanent structure or unit therein, watercraft, emergency shelter, or transitional housing facility where the covered offender resides, but does not intend to reside for more than one hundred eighty days.

“Tribal conviction” means a conviction by a tribal court of an Indian tribe recognized by the government of the United States.”

2. By amending the definitions of “conviction”, “crime against minors”, and “sexual offense” to read:

“Conviction” means a judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor[-], and occurs on the date judgment is entered.

“Crime against minors” excludes “sexual offenses” as defined in this section and means a criminal offense that consists of:

- (1) Kidnapping of a minor, by someone other than a parent;

- (2) Unlawful imprisonment in the first or second degree that involves the unlawful imprisonment of a minor by someone other than a parent;
- (3) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraph (1) or (2); [øf]
- (4) A criminal offense that is comparable to or which exceeds one of the offenses designated in paragraphs (1) through (3) ~~[or any]; or~~
- (5) Any federal, military, [øf] out-of-state, tribal, or foreign conviction for any offense that, under the laws of this State, would be a crime against minors as designated in paragraphs (1) through ~~[(3)-]~~ (4).
- “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);] 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, [712-1202(1)(a), 712-1202(1)(b),] 712-1202(1), or 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) A violation of privacy under section 711-1110.9;
- (5) 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)]~~ (6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through ~~[(4) or any] (5); or~~
- (7) Any federal, military, [øf] out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through ~~[(4); øf] (6).~~
- ~~[(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 (5).]”

SECTION 4. Section 846E-1, Hawaii Revised Statutes, is amended by repealing the definitions of “mental abnormality”, “personality disorder”, and “predatory”.

~~[“Mental abnormality” means a condition involving a disposition to commit criminal sexual offenses with a frequency that makes the person a menace to others.~~

~~“Personality disorder” shall have the same meaning as the term is used in the Diagnostic and Statistical Manual of Mental Health Disorders: DSM-IV, American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).~~

~~“Predatory” means an act directed at:~~

- ~~(1) A stranger; or~~
- ~~(2) A person with whom a relationship has been established or promoted for the primary purpose of victimization.”]~~

SECTION 5. Section 846E-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) A covered offender shall register with the attorney general and comply with the provisions of this chapter for life or for a shorter period of time as provided in this chapter. 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. A covered offender shall be eligible to petition the court in a civil proceeding for an order that the covered offender’s registration requirements under this chapter be terminated, as provided in section 846E-10.”

2. By amending subsection (d) to read:

“(d) Registration information for each covered offender shall include a signed statement by the covered offender containing:

- (1) The name, all prior names, nicknames and pseudonyms, and all aliases used by the covered offender or under which the covered offender has been known and other identifying information, including date of birth and any alias date of birth, social security number and any alias social security number, sex, race, height, weight, and hair and eye color;
- (2) The actual address and telephone number of the covered offender’s permanent residence or ~~[any current, temporary address where the covered offender resides,]~~ the address of the covered offender’s current temporary residence, or if an address is not available, a description of the place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period, and for each address or place where the covered offender resides, how long the covered offender has resided there;
- (3) The actual address or description of the place or area, the actual length of time of the stay, and telephone number where the covered offender is staying for a period of more than ten days, if other than the stated residence;
- (4) If known, the future address and telephone number of the place where the covered offender is planning to reside, if other than the stated residence;
- (5) Any electronic mail address, any instant message name, any internet designation or moniker, and any internet address used for routing or self-identification;
- (6) Any cell phone number and other designations used for routing or self-identification in telephonic communications;
- (7) Names and, if known, actual business addresses of current and known future employers, including information for any place where

- the covered offender works as a volunteer or otherwise works without remuneration, and the starting and ending dates of any such employment;
- (8) For covered offenders who may not have a fixed place of employment, a description of the places where such a covered offender works, such as information about normal travel routes or the general area or areas in which the covered offender works;
 - (9) Professional licenses held by the covered offender;
 - (10) Names and actual addresses of current and known future educational institutions with which the covered offender is affiliated in any way, whether or not compensated, including but not limited to affiliation as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;
 - (11) The year, make, model, color, and license or registration or other identifying number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender and the address or description of the place or places where the covered offender's vehicle or vehicles are habitually parked, docked, or otherwise kept;
 - (12) Passports and information about the passports, if the covered offender has passports, and documents establishing immigration status and information about these documents, if the covered offender is an alien;
 - (13) A statement listing all covered offenses for which the covered offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704;
 - (14) A statement indicating whether the covered offender has received or is currently receiving treatment ordered by a court of competent jurisdiction or by the Hawaii paroling authority;
 - (15) A statement indicating whether the covered offender is a United States citizen; and
 - (16) Any additional identifying information about the covered offender."

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

"(a) Each person, or that person's designee, in charge of a jail, prison, hospital, school, or other institution to which a covered offender has been committed pursuant to a conviction, or an acquittal or finding of unfitness to proceed pursuant to chapter 704, for a covered offense, and each judge, or that judge's designee, who continues bail for or releases a covered offender following ~~[a guilty verdict or a plea of guilty or nolo contendere,]~~ sentencing and the entry of a judgment of conviction, who releases a covered offender on probation or who discharges a covered offender upon payment of a fine, and each agency having jurisdiction, shall, prior to the discharge, parole, or release of the covered offender:

- (1) Explain to the covered offender the duty to register and the consequences of failing to register under this chapter;
- (2) Obtain from the covered offender all of the registration information required by this chapter;
- (3) Inform the covered offender that if at any time the covered offender changes any of the covered offender's registration information, the covered offender shall notify the attorney general of the new registration information in writing within three working days;

- (4) Inform the covered offender that, if at any time the covered offender changes residence to another state, the covered offender shall register the new address with the attorney general and also with a designated law enforcement agency in the new state, if the new state has a registration requirement, within the period of time mandated by the new state's sex offender registration laws;
- (5) Obtain and verify fingerprints and a photograph of the covered offender, if these have not already been obtained or verified in connection with the offense that triggers the registration;
- (6) Require the covered offender to sign a statement indicating that the duty to register has been explained to the covered offender; and
- (7) Give one copy of the signed statement and one copy of the registration information to the covered offender."

SECTION 7. Section 846E-5, Hawaii Revised Statutes, is amended to read as follows:

~~"§846E-5 Periodic verification of registration information. [Unless the covered offender is incarcerated or has registered with a designated law enforcement agency after establishing residence in another state, on the first day of every ninety-day period following the covered offender's initial registration date:~~

~~(1) The] (a) For the covered offender who has registered a permanent residence address to which the United States Postal Service will deliver mail or a permanent residence and a registered post office box, during the first week of the months of January, April, July, and October of every year, the attorney general shall mail a nonforwardable verification form to the last reported permanent residence address or post office box of the covered offender[;]. Upon receipt of the verification form:~~

- ~~[(2)] (1) The covered offender shall sign the verification form and state that the covered offender still resides at the address last reported to the attorney general and that no other registration information has changed or shall provide the new information; and~~
- ~~[(3)] (2) The covered offender shall mail the signed and completed verification form to the attorney general within ten days after receipt of the form[; and~~
- ~~(4) If the covered offender fails to mail the verification form to the attorney general within ten days after receipt of the form, the covered offender shall be in violation of this chapter, unless the covered offender proves that the covered offender has not changed the residence address.~~

~~This section shall become effective on July 1, 1998].~~

~~(b) For the covered offender who has registered:~~

- ~~(1) A temporary residence address;~~
- ~~(2) A description of a place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period;~~
- ~~(3) No place of residence; or~~
- ~~(4) A permanent residence address, to which the United States Postal Service will not deliver mail, and has no registered post office box, during the first week of the months of January, April, July, and October of every year, the covered offender shall report to the chief of police where the covered offender resides, or to such other department or agency that may be designated by the attorney general in rules adopted pursuant to chapter 91 for purposes of administration of this section, and shall review the existing information in the registry that is within the covered offender's knowledge, correct any information~~

that has changed or is inaccurate, and provide any new information that may be required.

(c) The periodic verification provisions of this section shall not apply to covered offenders who are incarcerated or have registered with a designated law enforcement agency after establishing residence in another state.”

SECTION 8. 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]~~ shall notify 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.]~~ of the covered offender’s current residence information. If the covered offender leaves the State and establishes a 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 9. Section 846E-9, Hawaii Revised Statutes, is amended to read as follows:

“§846E-9 Failure to comply with covered offender registration requirements. (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 every five years until June 30, 2009, and beginning on July 1, 2009, once every year, during the thirty-day period following the offender’s date of birth, to the chief of police where the covered offender’s residence is located, or to such other department or agency designated by the attorney general;
- (3) While reporting to the chief of police or such other department or agency designated by the attorney general, fails to correct information in the registry within the offender’s knowledge that has changed or is inaccurate regarding information required by section 846E-2(d)(1) through (12);
- (4) While reporting to the chief of police or such other department or agency designated by the attorney general, fails to provide new

information that may be required by section 846E-2(d)(1) through (12);

- (5) While reporting to the chief of police or such other department or agency designated by the attorney general, does not allow the police or other designated department or agency to take a current photograph of the person;
- (6) 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(g) require the person to do so;
- (7) 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;
- (8) Provides false registration information to the attorney general, the Hawaii criminal justice data center, or a chief of police;
- (9) 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;
- (10) 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] 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] of the covered offender's current residence information;~~
- (11) 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[-]; or
- (12) Fails to report to the chief of police where the covered offender resides, or to such other department or agency that may be designated by the attorney general in rules adopted pursuant to chapter 91, during the first week of the months of January, April, July, and October of every year, and verify and update the covered offender's registration information as required by section 846E-5(b).

(b) With respect to subsection (a)(1), (2), (6), (7), (10), (11), or (12), if a defendant intends to rely upon the defense that the covered offender was in custody or civilly committed, the defendant shall within the time provided for the filing of pretrial motions or at a later time as the court may direct, notify the prosecutor in writing of the defendant's intention and file a copy of the notice with the court.

~~[(b)] (c) Failure to comply with covered offender registration requirements is a class C felony."~~

SECTION 10. Section 846E-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Tier 3 offenses. A covered offender whose covered offense is any of the following offenses shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements:

- (1) Any offense set forth in section 707-730(1)(a), (b), (d), or (e), 707-731(1)(a) or (b), 707-732(1)(a), (b), or (f), or 707-733.6;
 - (2) An offense set forth in section 707-720; provided that the offense involves kidnapping of a minor by someone other than a parent;
 - (3) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1) or (2);
 - (4) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), or (3); or
 - (5) Any federal, military, ~~or~~ out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), or (3).”
2. By amending subsections (c) and (d) to read:

“(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, tribal, or foreign 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;

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- (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, tribal, or foreign~~ offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4) ~~]; or~~
- (7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6).”

SECTION 11. Sections 2, 3, 5, 6, 7, 8, and 10 shall apply to any acts committed prior to, on, or after the effective date of this Act.

SECTION 12. Section 9 of this Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved April 30, 2013.)