	DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: July 11, 2016	POLICY NO.: COR.16.04
		SUPERSEDES (Policy No. & Date): COR.16.04 & 06/06/08	
	SUBJECT: COVERED OFFENDER NOTIFICATION		Page 1 of 4

1.0 PURPOSE

To implement the statutory requirements set forth in Chapter 846E-4, Hawaii Revised Statutes (HRS), in a consistent and timely manner. The statute requires that all covered offenders' register with the Attorney General.

2.0 REFERENCES AND FORMS

.1 References

- a. Hawaii Revised Statutes (HRS) Chapter 846E, Registration of Sex Offenders and Other Covered Offenders and Public Access to Registration Information.
- b. HRS § 846E-4, Duties Upon Discharge, Parole or Release Of a Covered Offender.

.2 Forms

- a. Attachment A – Covered Offender Registration – List of Covered Offenses, January 2014 (attached).
- b. Attachment B – Designated Covered Offender Registration Facilities (attached).
- c. HCJDC/SOR-1 – Notification of Covered Offender Registration form (attached).
- d. HCJDC/SOR-2 – Covered Offender Registration Record form (attached).
- e. HRS Chapter 846E (attached).

3.0 DEFINITIONS

- .1 Covered Offender – An inmate convicted of a covered offense listed on Attachment A.
- .2 Furlough – An authorized leave of absence from the institution without an escort which is creditable toward service of sentence and is intended to provide the selected inmates opportunities for in-community experiences in family and social

NOT CONFIDENTIAL

COR P & PM	SUBJECT:	POLICY NO.:
	COVERED OFFENDER NOTIFICATION	COR.16.04
		EFFECTIVE DATE: July 11, 2016
		Page 2 of 4

reintegration, education, employment, vocational training, and/or specialized treatment prior to parole.

- .3 HCJDC – Hawaii Criminal Justice Data Center.
- .4 Maximum Term Release Date – The date when an inmate completes his/her sentence and released from the correctional facility.
- .5 Offender – Any person incarcerated or detained in a prison, or jail, community correctional center.
- .6 Pass – A written authorization that permits an individual to go on furlough.
- .7 Staff – Employee of the Department of Public Safety (PSD).

4.0 POLICY

It is the policy of the PSD to notify all covered offenders of their responsibility to register with the Attorney General, HCJDC, and local Chief of Police, pursuant to HRS Chapter 846E.

5.0 PROCEDURES

- .1 Staff shall determine the covered offender's maximum term release date or parole date.
 - a. After determining the release or parole date, review and complete HCJDC/SOR-1 Form and HCJDC/SOR-2 Form with the offender within 30 days prior to release, regardless of whether the offender has registered previously.
 - b. An **inked thumbprint** of the offender must be obtained and placed on HCJDC/SOR-1, page 2.
- .2 Staff shall explain the statutory responsibility to register and secure the offender's signature on the forms, or document that the offender refused to sign. Staff shall:
 - a. Explain to the offender his/her duty to register and the consequences of failing to register with the appropriate agencies.
 - b. Obtain from the offender all of the registration information.

NOT CONFIDENTIAL

COR P & PM	SUBJECT:	POLICY NO.: COR.16.04
	COVERED OFFENDER NOTIFICATION	EFFECTIVE DATE: July 11, 2016
		Page 3 of 4

- c. Inform the offender that if he/she changes residence to another state, the offender shall register the new address with the Attorney General and with a designated law enforcement agency in the new state, and within the time period mandated by the laws of the new state.
 - d. Obtain and verify fingerprints and a photograph of the offender, if this was not done in connection with the offense requiring the registration.
 - e. Require the offender to sign a statement indicating that the duty to register has been explained to him/her.
- .3 Staff shall provide the offender with a copy of the signed forms along with a copy of HRS Chapter 846E, while advising the offender of his/her duty to register with the Attorney General, HCJDC, and local Police Chief, under the law.
- .4 Staff shall keep one copy of all the documents in the offender's file and send the original signed forms, release checklist, and photograph to the Attorney General within three (3) working days.
- .5 Any offender required to register under HRS Chapter 846E, shall not be discharged, released from confinement, or placed on parole or probation, unless the requirements under Section 5.2.a-e have been completed.
- .6 Inmates to be released on furlough:
- a. Prior to the first furlough pass, staff shall review the Notification of Covered Offender Registration and the Covered Offender Registration form with the offender, explaining the statutory responsibility to register.
 - b. Staff shall secure the offender's signature on the forms or document that the offender refused to sign.
 - c. The staff shall give a copy of Chapter 846E, HRS, to the offender.
 - d. The staff shall also secure the offender's **inked thumbprint** on the required document.
- .7 It is incumbent upon the offender to keep the local Police Department updated as to their address as required by statute. Therefore, if the offender registers while housed in a PSD facility and provides that facility's address on the registration, the offender must notify the local Police Department when they are transferred to

NOT CONFIDENTIAL

COR P & PM	SUBJECT: COVERED OFFENDER NOTIFICATION	POLICY NO.: COR.16.04
		EFFECTIVE DATE: July 11, 2016
		Page 4 of 4

another facility or address. It is not the responsibility of PSD staff to notify the Police Department of an offender's change of address.

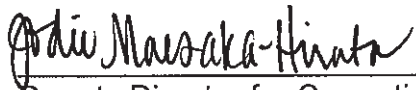
6.0 RESPONSIBILITY

Wardens shall ensure compliance with the provisions of this policy.

7.0 SCOPE

This policy shall apply to all correctional facilities.

APPROVAL RECOMMENDED:

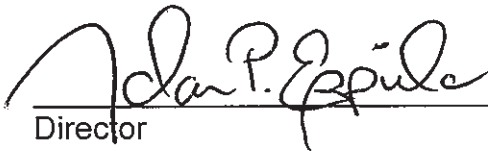


Deputy Director for Corrections

July 11, 2016

Date

APPROVED:



Director

July 11, 2016

Date

NOT CONFIDENTIAL

Covered Offender Registration—List of Covered Offenses
January 2014

CHARGE LITERAL	CODE	NOTES
CONTINUOUS SEX ASSAULT	707-0733.5 707-0733.8 ACT97-379	
INDECENT ELECTRONIC DISPLAY TO CHILD	707-0759	
ELECTRONIC ENTICEMENT OF CHILD 1	707-0756	If the offense was committed with the intent to promote or facilitate the commission of another covered offense
ELECTRONIC ENTICEMENT CHILD 2	707-0757	If the offense was committed with the intent to promote or facilitate the commission of another covered offense
INCEST	707-0741 17L	If victim is a minor
KIDNAPPING	707-0720	If of minor by non-parent or charging document alleges sexual intent
PROMOTING CHILD ABUSE 1	707-0750 707-750-88	
PROMOTING CHILD ABUSE 2	707-0751	
PROMOTING CHILD ABUSE 3	707-0752	
PROMOTING PROSTITUTION 1	16A 712-1202	
PROMOTING PROSTITUTION 2	16B 712-1203	
RAPE	707-0730 2 2A1 2B1 2C1	
RAPE 2	707-0731 2B2 2A2 2C2	
RAPE 3	707-0732 2D	
SEX ABUSE 1	707-0736 17G 17I 17H	
SEX ABUSE 2	707-0737 17J	
SEX ASSAULT 1	707-0730 707-730-87	
SEX ASSAULT 2	707-0731 707-731-87	
SEX ASSAULT 3	707-0732 707-732-87	
SEX ASSAULT 4	707-0733 707-733-87	If 707-733(1)(a) or victim is a minor
SEX OFFENSE	17	
SODOMY	707-0733 17A 17B 17C	
SODOMY 2	707-0734 17D 17E	
SODOMY 3	707-0735 17F	
SOLICITATION OF A MINOR FOR PROSTITUTION	712-1209.1	
UNLAWFUL IMPRISONMENT 1	707-0721	If of minor by non-parent
UNLAWFUL IMPRISONMENT 2	707-0722	If of minor by non-parent
VIOLATION OF PRIVACY 1	711-1110.9	

Covered offenses also include any comparable out-of-state, military, or federal offenses

DESIGNATED COVERED OFFENDER REGISTRATION FACILITIES

City & County of Honolulu:

<p>Honolulu Police Department Records Division 801 S. Beretania Street Honolulu, HI 96813 (808) 529-3191 Tuesday, Wednesday & Thursday 10:00 a.m. to 3:30 p.m.</p>	<p>Department of the Attorney General 465 S. King Street, Room 102 Honolulu, HI 96813 (808) 587-3350</p>
<p>Hawaii State Sheriffs Division Kapolei Judiciary Complex 4675 Kapolei Parkway Kapolei, HI 96707 (808) 954-8300 Tuesday & Thursday 10:00 a.m. to 2:00 p.m. By appointment only.</p>	<p>Hawaii State Sheriffs Division Keawe Station 240 Keawe Street Honolulu, HI 96813 (808) 587-3641 Monday & Friday 10:00 a.m. to 2:00 p.m.</p>

Maui County:

<p>Maui Police Department Records Division 55 Mahalani Street Wailuku, HI 96793 (808) 244-6530</p>	<p>Lanai Police Station 855 Fraser Avenue Lanai City, HI 96763 (808) 565-6428</p>
<p>Molokai Police Station 110 Aiona Street Kaunakakai, HI 96748 (808) 553-5355</p>	<p>Hawaii State Sheriffs Division Hoapili Hale 2145 Main Street Wailuku, HI 96793 (808) 244-2905 Friday By appointment only.</p>

Hawaii County:

<p>Hilo Police Station Receiving Desk 349 Kapiolani Street Hilo, HI 96720 (808) 961-2349</p>	<p>Kona Police Station 74-5221 Queen Kaahumanu Highway Kailua-Kona, HI 96740 (808) 326-4646</p>
<p>Hawaii State Sheriffs Division Hale Kaulike 777 Kilauea Avenue Hilo, HI 96720 (808) 933-8833</p>	<p>Hawaii State Sheriffs Division Keakealani Building 79-1020 Haukapila Street Kealahou, HI 96750 (808) 322-4847</p>

Kauai County:

<p>Kauai Police Department 3990 Kaana Street Lihue, HI 96766 (808) 241-1660</p>	<p>Hawaii State Sheriffs Division Puuhonua Kaulike Building 3970 Kaana Street Lihue, HI 96766 (808) 482-2470</p>
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Offender Name: _____ SID: _____

NOTIFICATION OF COVERED OFFENDER REGISTRATION

As a covered offender (sex offender or offender against minor), I have been informed and understand that I am required to comply with the following requirements and that **failure to comply with any of the requirements may result in criminal penalties.**

- _____ 1. I am required to register for **life** with the attorney general and comply with the provisions of covered offender registration (chapter 846E, Hawaii Revised Statutes). I must continue to register even after my probation or parole ends. The requirement to register can only be terminated if:
- a) I petition for and receive a court order terminating my registration requirements; or
 - b) I receive a full and absolute pardon or a conditional pardon which specifically excuses me from the registration requirement; or
 - c) I permanently move to another state following a valid notice of the intended move to the attorney general and compliance with registration requirements of the new state of residence.
- _____ 2. I must register with the chief of police of the county where I reside or am present in. I have received a list of addresses and telephone numbers of the agencies where I can register. I must register with the chief of police **no later than three (3) working days after the earliest** of the following:
- a) Arrival in this state;
 - b) Release from incarceration;
 - c) Release from commitment;
 - d) Release on furlough;
 - e) Conviction for a covered offense, unless incarcerated;
 - f) Release on probation;
 - g) Placement on parole; or
 - h) Arrival in the county in which I will reside or be present for more than ten (10) days.
- _____ 3. I have received a copy of chapter 846E, Hawaii Revised Statutes, and understand that I have the responsibility to read it, understand it, and comply with its provisions.
- _____ 4. I must report **in-person** to the chief of police of the county where I reside, or other designated registration agency, every year, within the 30-day period **following** my date of birth. Upon reporting, I must review the existing information in the registry that is within my knowledge, correct any information that has changed or is inaccurate, provide any new information that may be required, and allow the police or agency to take a current photograph. I must repeat this process every year.
- _____ 5. If I have registered a permanent residence address to which the U.S. Postal Service will deliver mail, or a permanent residence and a registered post office box, during the first week of January, April, July, and October of every year, the attorney general will mail a nonforwardable verification form to my last reported permanent residence address or post office box. I must complete, sign, and mail or deliver the completed verification form to the attorney general within ten (10) days after receipt of the form.
- _____ 6. If I have registered any of the following types of residences, during the first week of January, April, July, and October of every year, I am required to report **in-person** to the chief of police of the county where I reside, or other designated registration agency.
- a) A temporary residence address;
 - b) A description of a place or area in which I reside for at least 30 nonconsecutive days within a 60-day period;
 - c) No place of residence; or
 - d) A permanent residence address, to which the U.S. Postal Service will not deliver mail, and have not registered a post office box.
- Upon reporting, I must review the existing information in the registry that is within my knowledge, correct any information that has changed or is inaccurate, and provide any new information that may be required. I must repeat this process until such time I register a permanent address to which the U.S. Postal Service delivers mail or register a permanent residence and a post office box.
- _____ 7. While reporting to the chief of police, or other designated registration agency, I must correct registry information required by §846E-2(d).

- ___ 8. While reporting to the chief of police, or other designated registration agency, I must provide any new information that is required by §846E-2(d).
- ___ 9. I must inform the attorney general, in writing (at the address below) within three (3) working days if any of my registration information changes, including but not limited to a change in residence. A change in residence occurs during any period in which I am absent from my registered residence for ten (10) or more days. Notifying my probation or parole officer or any other agency of any changes in registration information does not relieve me of my duty to notify the attorney general of any changes. A written notice of any change in my registration information may be mailed to the attorney general at:

Covered Offender Registration
 Hawaii Criminal Justice Data Center
 Department of the Attorney General
 465 S. King Street, Room 102
 Honolulu, HI 96813
 (808) 587-3350

- ___ 10. If I move to a new state, I must register my new address with the (Hawaii) attorney general within three (3) working days and I must register my new address with the designated law enforcement agency in the new state within the period of time mandated by the new state's sex offender registration laws.
- ___ 11. If I visit another county for more than ten (10) days, I must register with the chief of police in that county within three (3) working days of my arrival.
- ___ 12. I understand that providing false registration information to the attorney general, chief of police, or any designated registration agency is a crime.
- ___ 13. I understand that signing any statement verifying that all my registration information is accurate and current when any of the registration is not accurate and not current is a crime.

By signing this notice provision, I agree that I have fully read and understood the requirements of covered offender registration.

Covered Offender's Signature: _____ Date: _____

I certify that I have made the covered offender aware of the requirements of covered offender registration.

Printed Name: _____ Title/Badge#/ID: _____

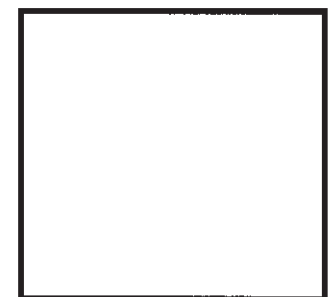
Signature: _____ Agency: _____

Interpreter/Translator: Not Required Required

Name of Interpreter/Translator: _____

PSD/HSH Only: Expected Release Date: _____

SO Refused / Accepted copies of COR form (circle one)



Thumbprint: Left Right

COVERED OFFENDER REGISTRATION RECORD

New Registrant Update

Name: _____ Sex: ____ Race: ____ Ht: ____ Wt: ____ Hair Color: ____ Eye Color: ____
(Last Name, First Name Middle Initial)

AKA: _____ U.S. Citizen: ____
(Include nicknames and pseudonyms)

SSN: _____ SID: _____ FBI: _____ DOB: _____

Alias SSN: _____ Alias DOB: _____

Scars/Marks/Tattoos: _____

ADDRESS INFORMATION (Attach additional sheet, if necessary):

Homeless: No Yes If Yes, provide description of place or area of residence:

(Description of place or area- including zip code Telephone) From: _____ To: _____

Residence Address: Work Furlough: No Yes

(Street No. Street Name Apt. No City State Zip) From: _____ To: _____ Phone: _____

Mailing Address (If different from Permanent Residence):

(Street No. Street Name Apt. No City State Zip) From: _____ To: _____ Phone: _____

Temporary Address (Must provide an end date): Please check one: < 180 days (requires in-person verification)
 > 180 days

(Street No. Street Name Apt. No City State Zip) From: _____ To: _____ Phone: _____

Future Address:

(Street No. Street Name Apt. No City State Zip) From: _____ To: _____ Phone: _____

COMMUNICATION INFORMATION:

Other Telephone Number(s):

(Cell) (Other: _____) (Other: _____) (Other: _____)

Email Addresses: _____

Instant Message Name(s): _____

Other Internet Designation(s) or Moniker(s): _____

EMPLOYMENT AND VOLUNTEER INFORMATION (Attach additional sheet, if necessary):

Employer Name: _____

(Street No. Street Name Apt. No City State Zip) From: _____ To: _____

If no fixed place of employment, provide description of general area(s) and normal travel routes below:

Professional Licenses: _____

CONTINUE REGISTRATION RECORD TO PAGE 2

COVERED OFFENDER REGISTRATION RECORD

Page 2

Name: _____ SID: _____
(Last Name, First Name Middle Initial)

EDUCATIONAL INSTITUTION INFORMATION (Attach additional sheet, if necessary):

Institution Name: _____

From: _____ To: _____
(Street No. Street Name Apt. No. City State Zip)
Affiliation: [] Student [] Faculty [] Staff [] Volunteer

VEHICLE INFORMATION (Attach additional sheet, if necessary):

1) Type: [] Automobile [] Watercraft [] Aircraft
1) Make: _____ Model: _____ Year: _____ Color: _____ License/Reg No.: _____

Location where vehicle is habitually kept: _____

Used Exclusively for Work: [] No [] Yes* From: _____ To: _____
*A letter from the employer verifying that this vehicle is used exclusively for work must be submitted.

2) Type: [] Automobile [] Watercraft [] Aircraft
Make: _____ Model: _____ Year: _____ Color: _____ License/Reg No.: _____

Location where vehicle is habitually kept: _____

Used Exclusively for Work: [] No [] Yes* From: _____ To: _____
*A letter from the employer verifying that this vehicle is used exclusively for work must be submitted.

COVERED OFFENSE RECORD (Attach additional sheet, if necessary):

Charge: _____ Place of Disposition: _____ Date: _____
Was the victim for this conviction a minor under the age of 18? [] No [] Yes

Charge: _____ Place of Disposition: _____ Date: _____
Was the victim for this conviction a minor under the age of 18? [] No [] Yes

ID, PASSPORT & IMMIGRATION STATUS:

[] Copy of valid driver's license or ID card attached
[] Copy of passports and documents establishing immigration status attached

Passport numbers and expiration dates: _____

Nationality: _____

If you are not a United States citizen, explain your immigration status (Permanent or Conditional): _____

Alien Number: _____ Expiration date: _____

I have received or am currently receiving treatment ordered by a court of competent jurisdiction or by the Hawaii Paroling Authority.
[] Yes [] No

By signing below, I verify that all the information I have provided on this Covered Offender Registration Record is accurate and current.

Covered Offender's Signature: _____ Date: _____

WITNESS:

Printed Name: _____ Title/Badge#/ID# _____

Signature: _____ Agency: _____

VERIFY ALL INFORMATION AND ATTACH:

[] Photograph [] Fingerprints [] Release Documents
cc: [] HCJDC (Original documents) [] Offender

[] Complaint/Indictment/Judgment [] Police Department [] PSD

[] DNA Provided [] File

[§846D-7] **Penalty.** Any person who knowingly permits the dissemination of information in violation of this chapter, or any person who gains unauthorized access to information in the juvenile justice information system, shall be guilty of a misdemeanor. [L 1991, c 311, pt of §2]

CHAPTER 846E REGISTRATION OF SEX OFFENDERS AND OTHER COVERED OFFENDERS AND PUBLIC ACCESS TO REGISTRATION INFORMATION

SECTION

- 846E-1 DEFINITIONS
- 846E-2 REGISTRATION REQUIREMENTS
- 846E-3 ACCESS TO REGISTRATION INFORMATION
- 846E-4 DUTIES UPON DISCHARGE, PAROLE, OR RELEASE OF COVERED OFFENDER
- 846E-5 PERIODIC VERIFICATION OF REGISTRATION INFORMATION
- 846E-6 REQUIREMENT TO REGISTER A CHANGE OF REGISTRATION INFORMATION; VERIFICATION BY THE ATTORNEY GENERAL
- 846E-7 NOTIFICATION BY THE ATTORNEY GENERAL OF CHANGES IN REGISTRATION INFORMATION
- 846E-8 GOOD FAITH IMMUNITY
- 846E-9 FAILURE TO COMPLY WITH COVERED OFFENDER REGISTRATION REQUIREMENTS
- 846E-10 TERMINATION OF REGISTRATION REQUIREMENTS
- 846E-11 REPEALED
- 846E-12 TOLLING
- 846E-13 REPEALED

Note

Chapter heading amended by L 2005, c 45, §2.

Revision Note

Chapter was enacted as addition to title 37 but was renumbered pursuant to §23G-15. In this chapter, subsection, paragraph, and subparagraph designations are redesignated pursuant to §23G-15(1).

Law Journals and Reviews

When Children Prey on Children: A Look at Hawaii's Version of Megan's Law and its Application to Juvenile Sex Offenders. 20 UH L. Rev. 477 (1998).

Case Notes

Indecent exposure, in violation of §707-734, does not constitute an offense that entails "criminal sexual conduct" and, consequently, persons convicted of indecent exposure are not "sex offenders" for purposes of this chapter; thus, defendant was not required to register as a "sex offender" pursuant to this chapter. 102 H. 383, 76 P.3d 935 (2003).

Registration requirements under this chapter not cruel and unusual punishment under article I, §12 of the Hawaii constitution as registration requirements are not so punitive in nature as to overcome legislature's remedial purpose. 105 H. 222, 96 P.3d 242 (2004).

The lifetime registration component of the Hawaii sex offender registration statute implicates a protected liberty interest under the Hawaii constitution, article I, §5 and requires that minimum requirements of due process—notice and opportunity to be heard—be afforded to convicted sex offenders; such a proceeding may be instituted by a sex offender in a special proceeding. 105 H. 222, 96 P.3d 242 (2004).

This chapter, as applied to defendant, was not grossly disproportionate to the offenses for which defendant was convicted, as proportionality is not guaranteed by the Eighth Amendment; the question was whether the statute itself effects a punishment which was both severe and unknown to Anglo-American tradition. 105 H. 222, 96 P.3d 242 (2004).

This chapter not violative of ex post facto clause under Article I, §10 of the U.S. Constitution as legislature's express purpose was for chapter to be remedial rather than punitive and statutory scheme is not so punitive as to negate the State's remedial purpose. 105 H. 222, 96 P.3d 242 (2004).

846E-1 PROCEDURAL AND SUPPLEMENTARY PROVISIONS

§846E-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Agency having jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement or place a person on probation, supervised release, or parole and includes the department of public safety, the Hawaii paroling authority, the courts, and the department of health.

"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.

"Clean record" means no conviction for a felony or covered offense, if placed on probation or parole, completion of probation or parole without more than one revocation, and, for sex offenders, successful completion of an appropriate sex offender treatment program, if such program was ordered.

"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.

"Covered offender" means a "sex offender" or an "offender against minors", as defined in this section.

"Covered offense" means a criminal offense that is:

- (1) A crime within the definition of "crimes against minors" in this section; or
 - (2) A crime within the definition of "sexual offense" in this section.
- "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);
 - (4) A criminal offense that is comparable to or which exceeds one of the offenses designated in paragraphs (1) through (3); or
 - (5) Any federal, military, 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 (4).

"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).

"Offender against minors" means a person who is not a "sex offender", as defined in this section, and is or has been:

- (1) Convicted at any time, whether before or after May 9, 2005, of a "crime against minors" as defined in this section; or
- (2) Charged at any time, whether before or after May 9, 2005, with a "crime against minors" as defined in this section and who is found

REGISTRATION OF SEX OFFENDERS

846E-1

unfit to proceed and is released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.

"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.

"Parent" means a parent, legal guardian, or a person who has a substantial familial or banai relationship with the minor.

"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.

"Registration information" means the information specified in section 846E-2(d) and (e).

"Release" means release from:

- (1) Imprisonment;
- (2) Imprisonment and placed on parole;
- (3) Imprisonment and placed on furlough;
- (4) Any form of commitment, custody, or confinement resulting from an order made pursuant to chapter 704; or
- (5) A halfway house or other equivalent facility, whichever is later.

"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.

"Sex offender" means:

- (1) A person who is or has been convicted at any time, whether before or after May 9, 2005, of a "sexual offense"; or
- (2) A person who is or has been charged at any time, whether before or after May 9, 2005, with a "sexual offense" and is or has been found unfit to proceed and is or has been released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.

"Sexual offense" means an offense that is:

- (1) Set forth in section 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, 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;

846E-1 PROCEDURAL AND SUPPLEMENTARY PROVISIONS

- (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 for prostitution in violation of section 712-1209.1;
- (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);
- (6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (5); or
- (7) Any federal, military, 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 (6).

"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. [L. 1997, c 316, pt. of §2; am L. 1998, c 194, §1; am L. 2003, c 62, §3; am L. 2004, c 59, §1; am L. 2005, c 45, §3; am L. 2006, c 60, §5 and c 106, §1; am L. 2008, c 80, §4; am L. 2009, c 11, §10; am L. 2011, c 125, §1; am L. 2013, c 64, §§3, 4 and c 247, §5]

Note

Applicability of 2011 amendment, L. 2011, c 125, §4.
The L. 2013, c 64, §3 amendment applies to any acts committed prior to, on, or after April 30, 2013.
L. 2013, c 64, §11.

Case Notes

Indecent exposure, in violation of §707-734, does not constitute an offense that entails "criminal sexual conduct" and, consequently, persons convicted of indecent exposure are not "sex offenders" for purposes of this chapter. Thus, defendant was not required to register as a "sex offender" pursuant to this chapter. 102 H. 383, 76 P.3d 935 (2005).

Under article I, §5, of the Hawaii constitution, due process requires that a convicted sex offender under this section be afforded the right to a judicial hearing at which evidence may be offered to demonstrate that continuance of all or part of the lifetime registration requirements are not necessary in a particular case to fulfill the public need to which the sex offender act responded. 105 H. 222, 90 P.3d 242 (2004).

Where it was not necessary for defendant to actually commit one of the felony offenses defined in this section in order to violate the prohibition against the electronic enticement of a child under §707-756(1) but only necessary under §707-756(1)(b)(iii) that defendant act with the intent to promote

REGISTRATION OF SEX OFFENDERS

846E-2

or facilitate the commission of a felony offense defined in this section, the State was not required to specify in the indictment which felony offense defined in this section that defendant intended to promote or facilitate. 120 H. 480 (App.), 210 P.3d 3 (2009).

§846E-2 Registration requirements. (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.

(b) A person who establishes or maintains a residence in this State and who has not been designated as a covered offender by a court of this State but who has been designated as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a covered offender, shall register in the manner provided in this section and shall be subject to community and public notification as provided in section 846E-3. A person who meets the criteria of this subsection is subject to the requirements and penalty provisions of section 846E-9 until the person successfully petitions the attorney general for termination of registration requirements by:

- (1) Providing an order issued by the court that designated the person as a covered offender, sex offender, offender against minors, repeat covered offender, sexually violent predator, or any other sexual offender designation in the state or jurisdiction in which the order was issued, which states that such designation has been removed or demonstrates to the attorney general that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and such person does not meet the criteria for registration as a covered offender under the laws of this State; or
- (2) Demonstrating that the out-of-state convictions upon which the sexual offender designation was established are not covered offenses under section 846E-1, thereby showing that such person does not meet the criteria for registration as a covered offender under the laws of this State.

If the covered offender is not satisfied with the decision of the attorney general on the request for termination of registration requirements, the covered offender may appeal the decision pursuant to chapter 91.

(c) Each provision of this chapter applicable to sex offenders shall also be applicable to offenders against minors, unless offenders against minors are specifically excluded. Whenever a covered offender's public information is made publicly accessible, separate registries shall be maintained for:

- (1) Sex offenders; and
 - (2) Offenders against minors.
- (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

- (2) 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 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.
- (e) The following information shall also be included in the registry for each covered offender:
 - (1) A current photograph of the covered offender;
 - (2) A physical description of the covered offender, including a description of particular identifying characteristics such as scars or tattoos;
 - (3) Confirmation that the covered offender has provided digitized fingerprints and palm prints of the covered offender;
 - (4) Judgment of conviction, judgment of acquittal, or judicial determination of unfitness to proceed documenting the criminal offense or offenses for which the covered offender is registered;
 - (5) The text, or an electronic link to the text, of the provision of law defining the criminal offense or offenses for which the covered offender is registered;
 - (6) The criminal history of the covered offender, or an electronic link to the criminal history, including the date of all arrests and convictions, the status of parole, probation, or supervised release, registration status, and the existence of any outstanding arrest warrants for the covered offender;
 - (7) Confirmation that the covered offender has provided a DNA buccal swab sample as required by chapter 844D;
 - (8) Digitized copies of a valid driver's license or identification card issued to the covered offender, or an electronic link to such records; and
 - (9) Digitized copies of passports and documents establishing immigration status, or an electronic link to such records.
 - (f) Whenever a covered offender provides registration information, during initial registration as a covered offender or when providing notice of change in registration information, the covered offender also shall sign a statement verifying that all of the registration information is accurate and current.
 - (g) 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;

- (7) Placement on parole; or
- (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 until June 30, 2009, and beginning on July 1, 2009, every year, within the thirty-day period following the offender's date of birth, 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 the administration of this subsection, and shall review the existing information in the registry that is within the offender's knowledge, correct any information that has changed or is inaccurate, provide any new information that may be required, and allow the police and such other department or agency designated by the attorney general to take a current photograph of the offender.
- (h) The registration provisions of this section shall apply to all covered offenders without regard to:

- (1) The date of the covered offender's conviction;
- (2) The date of finding, pursuant to chapter 704, of the covered offender's unfitness to proceed; or
- (3) The date of the covered offender's acquittal due to mental disease, disorder, or defect, pursuant to chapter 704. [L. 1997, c. 316, pt of §2; am L. 1998, c. 194, §2; am L. 2002, c. 234, §1; am L. 2003, c. 62, §4; am L. 2004, c. 59, §2; am L. 2005, c. 45, §4; am L. 2006, c. 106, §2; am L. 2008, c. 80, §5; am L. 2013, c. 64, §5]

Note

The 2013 amendment applies to any acts committed prior to, on, or after April 30, 2013. L. 2013, c. 64, §11.

Case Notes

As the registration requirements of chapter 846E do not interfere with any of a sex offender's protected liberty interests, the protections of procedural due process are not triggered. 97 H. 283, 36 P.3d 1255 (2001).

The lifetime registration component of the Hawaii sex offender registration statute implicates a protected liberty interest under the Hawaii constitution, article I, §5 and requires that minimum requirements of due process—notice and opportunity to be heard—be afforded to convicted sex offenders; such a proceeding may be instituted by a sex offender in a special proceeding. 105 H. 222, 96 P.3d 242 (2004).

§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; and
 - (3) The attorney general and any county police department shall release public information as provided in subsection (b) 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, "public information" means:
- (1) Name, prior names, nicknames and pseudonyms, and all aliases used by the covered offender or under which the covered offender has been known;

- (2) The year of the covered offender's date of birth and the year of the covered offender's alias dates of birth;
 - (3) A physical description of the covered offender, including a description of particular identifying characteristics such as scars or tattoos;
 - (4) The actual address where the covered offender resides or any current, temporary address where the covered offender resides or, if an address is not available, a description of any 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;
 - (5) The actual address or description of the place or area where the covered offender is staying for more than ten days, if other than the stated residence, and the actual length of time of the stay;
 - (6) The future actual address, if known, where the covered offender is planning to reside, if other than the stated residence;
 - (7) The street name and zip code of the covered offender's current locations of employment, including information for any place where the covered offender works as a volunteer or otherwise works without remuneration;
 - (8) For covered offenders who may not have a fixed place of employment, a description of the places where such a 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 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 number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender, excluding vehicles operated exclusively for purposes of work;
 - (12) 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;
 - (13) Judgment of conviction, judgment of acquittal, or judicial determination of unfitness to proceed documenting the criminal offense or offenses for which the covered offender is registered;
 - (14) The text, or an electronic link to the text, of the provision of law defining the criminal offense or offenses for which the covered offender is registered; and
 - (15) A recent photograph of the covered offender.
- The identity of any victim of a sexual offense shall not be disclosed and any documentation containing such information shall be redacted to prevent disclosure.
- (c) To facilitate community notification, after a covered offender registers or updates a registration, the attorney general may provide public information in the registry about that offender to any organization, company, or individual who requests such notification pursuant to procedures established by the attorney general through rules adopted pursuant to chapter 91.
- (d) A covered offender may seek correction of erroneous public information by petitioning the attorney general to make the correction. If the covered offender is not satisfied with the decision of the attorney general on the request for correction, the covered offender may appeal the decision pursuant to chapter 91.

(e) Public access to a covered offender's public information shall be permitted with regard to each covered offender beginning the next working day following the filing of a judgment of conviction, a finding of unfitness to proceed or an acquittal due to mental disease, disorder, or defect, for a covered offense, or as soon thereafter as is practical. When a notice of appeal has been filed, the public information shall note that the covered offender has filed a notice of appeal. The public information shall be removed upon the reversal of the covered offender's conviction or the granting of a pardon to the covered offender.

(f) Public access authorized by this section shall be provided by both public internet access and on-site public access; provided that on-site public access shall be provided for each covered offender at the Hawaii criminal justice data center and at one or more designated police stations in each county, to be designated by the attorney general, between the hours of 8:00 a.m. and 4:30 p.m. on weekdays, excluding holidays.

(g) Public access to the public information for each covered offender shall be permitted while the covered offender is subject to sex offender registration, except that after forty years have elapsed after release or sentencing, whichever is later, 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 substantial evidence and more than proof by a preponderance of the evidence that:

- (1) The covered offender has had no new convictions for covered offenses;
- (2) The covered offender 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.

(h) If a covered offender has been convicted of only one covered offense and that covered offense is a misdemeanor, the covered offender shall not be subject to the public access requirements set forth in this section.

(i) The following message shall be posted at both the site of internet access and on-site public access locations:

"Information regarding covered offenders is permitted pursuant to chapter 846E. Public access to this information is based solely on the fact of each offender's criminal conviction and is not based on an estimate of the offender's level of dangerousness. By allowing public access to this information, the State makes no representation as to whether the covered offenders listed are dangerous. Any person who uses the information in this registry to injure, harass, or commit a criminal act against any person included in the registry may be subject to criminal prosecution, civil liability, or both."

(j) The public access provisions of this section shall apply to all covered

offenders without regard to the date of conviction.

(k) "Conviction" as used in this section means:

- (1) A judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor;
- (2) A finding of unfitness to proceed resulting in the release of the covered offender into the community, excluding such a finding as to a minor; or
- (3) An acquittal due to a physical or mental disease, disorder, or defect pursuant to chapter 704, resulting in the release of the covered offender into the community, excluding such acquittal as to a minor. [L 1997, c 316, pt of §2; am L 1998, c 194, §3; am L 2002, c 234, §2; am L 2003, c 62, §5; am L 2004, c 59, §3; am L 2005, c 45, §5; am L 2006, c 106, §3; am L 2008, c 80, §6]

Case Notes

As this section operated to deprive defendant of a protected liberty interest and provided defendant with neither notice nor an opportunity to be heard prior to notifying the public of defendant's status as a convicted sex offender, this section denied defendant due process under article I, §5 of the Hawaii constitution; this section is thus void and unenforceable. 97 H. 285, 36 P.3d 1255 (2001).

§846E-4 Duties upon discharge, parole, or release of covered offender. (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 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.
- (b) No covered offender required to register under this chapter shall be

846E-4 PROCEDURAL AND SUPPLEMENTARY PROVISIONS

discharged, released from any confinement, or placed on parole or probation unless the requirements of subsection (a) have been satisfied and all registration information required under section 846E-2 has been obtained.

(c) Notwithstanding any law to the contrary, a copy of the signed statement and one copy of the registration information shall be transmitted to the attorney general within three working days.

(d) Following receipt of the information from the agency having jurisdiction over the covered offender, the attorney general immediately shall enter the information into a statewide record system, unless the information has been previously entered into a statewide record system, and notify the county police department or appropriate law enforcement agency having jurisdiction where the covered offender expects to reside. The attorney general immediately shall transmit the conviction data and verified fingerprints to the Federal Bureau of Investigation, unless the items have been previously transmitted to the Federal Bureau of Investigation.

(e) The chief of police shall transmit any covered offender registration information required by this chapter to the attorney general, by entering the information into a statewide record system, if the information has not previously been entered into the system, and also shall provide the attorney general with a photograph and fingerprints of the covered offender, taken at the time the covered offender registers with the chief of police. The covered offender shall report in person every five years until June 30, 2009, and beginning on July 1, 2009, every year within 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 that may be designated by the attorney general in rules adopted pursuant to chapter 91 for purposes of the administration of this subsection, and shall review the existing information in the registry that is within the offender's knowledge, correct any information that has changed or is inaccurate, provide any new information that may be required, and allow the police and such other department or agency designated by the attorney general to take a current photograph of the offender. [L 1997, c 316, pt of §2; am L 1998, c 194, §§4 to 6; am L 2003, c 62, §§6, 7; am L 2005, c 45, §6; am L 2008, c 80, §7; am L 2013, c 64, §6]

Note

The 2013 amendment applies to any acts committed prior to, on, or after April 30, 2013. L 2013, c 64, §11.

Case Notes

As the registration requirements of chapter 846E do not interfere with any of a sex offender's protected liberty interests, the protections of procedural due process are not triggered. 97 H. 285, 36 P.3d 1255 (2001).

§846E-5 Periodic verification of registration information. (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:

(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

REGISTRATION OF SEX OFFENDERS

846E-6

ney general and that no other registration information has changed or shall provide the new information; and

(2) The covered offender shall mail the signed and completed verification form to the attorney general within ten days after receipt of the form.

(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,

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. [L 1997, c 316, pt of §2; am L 2005, c 45, §7; am L 2013, c 64, §7]

Note

The 2013 amendment applies to any acts committed prior to, on, or after April 30, 2013. L 2013, c 64, §11.

Case Notes

As the registration requirements of chapter 846E do not interfere with any of a sex offender's protected liberty interests, the protections of procedural due process are not triggered. 97 H. 285, 36 P.3d 1255 (2001).

§846E-6 Requirement to register a change of registration information; verification by the attorney general. (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, the covered offender shall notify the attorney general in writing within three working days of the covered offender's current residence information. If the covered offender leaves the State and establishes a new residence 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.

(b) If the attorney general receives notice from the Federal Bureau of Investigation that a covered offender required to be registered under this chapter or under any federal law has entered the State, the attorney general shall notify

846E-6 PROCEDURAL AND SUPPLEMENTARY PROVISIONS

the Federal Bureau of Investigation of the offender's new residence.

(c) If the attorney general cannot verify the address of or locate a covered offender required to be registered under this chapter or under federal law, the attorney general immediately shall notify the Federal Bureau of Investigation. [L 1997, c 316, pt of §2; am L 1998, c 194, §7, 8; am L 2003, c 62, §8; am L 2004, c 59, §4; am L 2005, c 45, §8; am L 2006, c 106, §4; am L 2013, c 64, §8]

Note

The 2013 amendment applies to any acts committed prior to, on, or after April 30, 2013. L 2013, c 64, §11.

Case Notes

As the registration requirements of chapter 846E do not interfere with any of a sex offender's protected liberty interests, the protections of procedural due process are not triggered. 97 H. 285, 36 P.3d 1255 (2001).

§846E-7 Notification by the attorney general of changes in registration information. Immediately, and in no event, not later than ten days after receiving notice of a change of registration information, the attorney general shall report the change of registration information by a covered offender required to register under this chapter to the county police department where the covered offender is residing and, in the event the covered offender changes address to another county or state, shall report such change of address to the Federal Bureau of Investigation. If the person changes residence to another state, the attorney general also shall notify the law enforcement agency with which the person must register in the new state, if the new state has a registration requirement. [L 1997, c 316, pt of §2; am L 1998, c 194, §9; am L 2005, c 45, §9]

§846E-8 Good faith immunity. Law enforcement agencies, employees of law enforcement agencies, and state and county officials shall be immune from liability for good faith conduct under this chapter. [L 1997, c 316, pt of §2]

§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);

742

REGISTRATION OF SEX OFFENDERS

846E-10

(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 fails to notify the attorney general in writing within three working days 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.

(c) Failure to comply with covered offender registration requirements is a class C felony. [L 1997, c 316, pt of §2; am L 2004, c 59, §5; am L 2005, c 45, §10; am L 2006, c 106, §5; am L 2008, c 80, §8; am L 2013, c 64, §9]

§846E-10 Termination of registration requirements. (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 in-

743

- 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, out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), or (3).
- (b) A repeat covered offender 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.
- (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, 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), 712-1203(1), or 712-1209.1;
- (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 con-

- spiracy 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);
- (6) Any federal, military, 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).
- (e) Notwithstanding any other provisions in this section, any covered offender, forty years after the covered offender's date of release or sentencing, whichever is later, for the covered offender's most recent covered offense, may petition the court, in a civil proceeding, for termination of registration requirements.

(f) In the civil proceeding for termination of registration requirements, 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 substantial evidence and more than proof by a preponderance of the evidence that:

- (1) The covered offender has met the statutory requirements of eligibility to petition for termination;
 - (2) The covered offender has substantially complied with registration requirements;
 - (3) The covered offender is very unlikely to commit a covered offense ever again; and
 - (4) Registration by the covered offender will not assist in protecting the safety of the public or any member thereof.
- (g) 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. [L. 2005, c 45, pt of §1; am L 2008, c 80, §9; am L 2011, c 125, §2; am L 2013, c 64, §10 and c 247, §6]

Note

Applicability of 2011 amendment. L 2011, c 125, §4.
The L 2013, c 64, §10 amendment applies to any acts committed prior to, on, or after April 30, 2013. L 2013, c 64, §11.

§846E-11 REPEALED. L 2008, c 80, §10.

§846E-12 Tolling. The time periods provided for in this chapter shall be tolled during any period of time the covered offender is committed or recommitted to prison or confined to a halfway house, or an equivalent facility, pursuant to a parole or probation violation. [L 2005, c 45, pt of §1]

§846E-13 REPEALED. L 2008, c 80, §11.