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## A BILL FOR AN ACT

RELATING TO SEX OFFENDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 706, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§706- Sentence of imprisonment for first degree sexual  
5 penetration of child under twelve; mandatory minimum term of  
6 imprisonment. Notwithstanding any provision of this chapter to  
7 the contrary, a person convicted of sexual assault in the first  
8 degree under section 707-730(f) shall be sentenced to an  
9 indeterminate term of imprisonment of twenty years, with a  
10 mandatory minimum term of imprisonment of ten years without the  
11 possibility of parole."

12 SECTION 2. Section 706-659, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§706-659 Sentence of imprisonment for class A felony.  
15 Notwithstanding part II; sections 706-605, 706-606, 706-606.5,  
16 706-660.1, 706-661, [~~and~~] 706-662[+], and 706- ; and any other  
17 law to the contrary, a person who has been convicted of a class



1 A felony, except class A felonies defined in chapter 712, part  
2 IV, or section 707-702, shall be sentenced to an indeterminate  
3 term of imprisonment of twenty years without the possibility of  
4 suspension of sentence or probation. The minimum length of  
5 imprisonment shall be determined by the Hawaii paroling  
6 authority in accordance with section 706-669. A person who has  
7 been convicted of a class A felony defined in chapter 712, part  
8 IV, or section 707-702, may be sentenced to an indeterminate  
9 term of imprisonment, except as provided for in section  
10 706-660.1 relating to the use of firearms in certain felony  
11 offenses and section 706-606.5 relating to repeat offenders.  
12 When ordering such a sentence, the court shall impose the  
13 maximum length of imprisonment which shall be twenty years. The  
14 minimum length of imprisonment shall be determined by the Hawaii  
15 paroling authority in accordance with section 706-669."

16 SECTION 3. Section 707-730, Hawaii Revised Statutes, is  
17 amended by amending subsection (1) to read as follows:

18 "(1) A person commits the offense of sexual assault in the  
19 first degree if:

20 (a) The person knowingly subjects another person to an act  
21 of sexual penetration by strong compulsion;



- 1 (b) The person knowingly engages in sexual penetration
- 2 with another person who is less than fourteen years
- 3 old;
- 4 (c) The person knowingly engages in sexual penetration
- 5 with a person who is at least fourteen years old but
- 6 less than sixteen years old; provided that:
- 7 (i) The person is not less than five years older than
- 8 the minor; and
- 9 (ii) The person is not legally married to the minor;
- 10 (d) The person knowingly subjects to sexual penetration
- 11 another person who is mentally defective; ~~[or]~~
- 12 (e) The person knowingly subjects to sexual penetration
- 13 another person who is mentally incapacitated or
- 14 physically helpless as a result of the influence of a
- 15 substance that the actor knowingly caused to be
- 16 administered to the other person without the other
- 17 person's consent[-]; or
- 18 (f) The person is eighteen years of age or older and
- 19 knowingly subjects to sexual penetration another
- 20 person who is less than twelve years old.



1 Paragraphs (b) [~~and~~], (c), and (f) shall not be construed to  
2 prohibit practitioners licensed under chapter 453 or 455 from  
3 performing any act within their respective practices."

4 SECTION 4. Section 846E-2, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§846E-2 Registration requirements.** (a) A covered  
7 offender shall register with the attorney general and comply  
8 with the provisions of this chapter for life or for a shorter  
9 period of time as provided in this chapter. Registration under  
10 this subsection is required whenever the covered offender,  
11 whether or not a resident of this State, remains in this State  
12 for more than ten days or for an aggregate period exceeding  
13 thirty days in one calendar year. A covered offender shall be  
14 eligible to petition the court in a civil proceeding for an  
15 order that the covered offender's registration requirements  
16 under this chapter be terminated, as provided in section  
17 846E-10.

18 (b) A person who establishes or maintains a residence in  
19 this State and who has not been designated as a covered offender  
20 by a court of this State but who has been designated as a  
21 covered offender, sex offender, offender against minors, repeat



1 covered offender, sexually violent predator, or any other sexual  
2 offender designation in another state or jurisdiction and was,  
3 as a result of such designation, subjected to registration or  
4 community or public notification, or both, or would be if the  
5 person was a resident of that state or jurisdiction, without  
6 regard to whether the person otherwise meets the criteria for  
7 registration as a covered offender, shall register in the manner  
8 provided in this section and shall be subject to community and  
9 public notification as provided in section 846E-3. A person who  
10 meets the criteria of this subsection is subject to the  
11 requirements and penalty provisions of section 846E-9 until the  
12 person successfully petitions the attorney general for  
13 termination of registration requirements by:

14 (1) Providing an order issued by the court that designated  
15 the person as a covered offender, sex offender,  
16 offender against minors, repeat covered offender,  
17 sexually violent predator, or any other sexual  
18 offender designation in the state or jurisdiction in  
19 which the order was issued, which states that such  
20 designation has been removed or demonstrates to the  
21 attorney general that such designation, if not imposed



1 by a court, has been removed by operation of law or  
2 court order in the state or jurisdiction in which the  
3 designation was made, and such person does not meet  
4 the criteria for registration as a covered offender  
5 under the laws of this State; or

- 6 (2) Demonstrating that the out-of-state convictions upon  
7 which the sexual offender designation was established  
8 are not covered offenses under section 846E-1, thereby  
9 showing that such person does not meet the criteria  
10 for registration as a covered offender under the laws  
11 of this State.

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

16 (c) Each provision of this chapter applicable to sex  
17 offenders shall also be applicable to offenders against minors,  
18 unless offenders against minors are specifically excluded.

19 Whenever a covered offender's public information is made  
20 publicly accessible, separate registries shall be maintained  
21 for:



1 (1) Sex offenders; and

2 (2) Offenders against minors.

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

6 (1) The name, all prior names, nicknames and pseudonyms,  
7 and all aliases used by the covered offender or under  
8 which the covered offender has been known and other  
9 identifying information, including date of birth and  
10 any alias date of birth, social security number and  
11 any alias social security number, sex, race, height,  
12 weight, and hair and eye color;

13 (2) The actual address and telephone number of the covered  
14 offender's permanent residence or the address of the  
15 covered offender's current temporary residence, or if  
16 an address is not available, a description of the  
17 place or area in which the covered offender resides  
18 for at least thirty nonconsecutive days within a  
19 sixty-day period, and for each address or place where  
20 the covered offender resides, how long the covered  
21 offender has resided there;



- 1           (3) The actual address or description of the place or  
2           area, the actual length of time of the stay, and  
3           telephone number where the covered offender is staying  
4           for a period of more than ten days, if other than the  
5           stated residence;
- 6           (4) If known, the future address and telephone number of  
7           the place where the covered offender is planning to  
8           reside, if other than the stated residence;
- 9           (5) Any electronic mail address, any instant message name,  
10          any internet designation or moniker, and any internet  
11          address used for routing or self-identification;
- 12          (6) Any cell phone number and other designations used for  
13          routing or self-identification in telephonic  
14          communications;
- 15          (7) Names and, if known, actual business addresses of  
16          current and known future employers, including  
17          information for any place where the covered offender  
18          works as a volunteer or otherwise works without  
19          remuneration, and the starting and ending dates of any  
20          such employment;





- 1           (8) For covered offenders who may not have a fixed place
- 2           of employment, a description of the places where such
- 3           a covered offender works, such as information about
- 4           normal travel routes or the general area or areas in
- 5           which the covered offender works;
- 6           (9) Professional licenses held by the covered offender;
- 7           (10) Names and actual addresses of current and known future
- 8           educational institutions with which the covered
- 9           offender is affiliated in any way, whether or not
- 10          compensated, including but not limited to affiliation
- 11          as a faculty member, an employee, or a student, and
- 12          the starting and ending dates of any such affiliation;
- 13          (11) The year, make, model, color, and license or
- 14          registration or other identifying number of all
- 15          vehicles, including automobiles, watercrafts, and
- 16          aircrafts, currently owned or operated by the covered
- 17          offender and the address or description of the place
- 18          or places where the covered offender's vehicle or
- 19          vehicles are habitually parked, docked, or otherwise
- 20          kept;



1 (12) Passports and information about the passports, if the  
2 covered offender has passports, and documents  
3 establishing immigration status and information about  
4 these documents, if the covered offender is an alien;

5 (13) A statement listing all covered offenses for which the  
6 covered offender has been convicted or found unfit to  
7 proceed or acquitted pursuant to chapter 704;

8 (14) A statement indicating whether the covered offender  
9 has received or is currently receiving treatment  
10 ordered by a court of competent jurisdiction or by the  
11 Hawaii paroling authority;

12 (15) A statement indicating whether the covered offender is  
13 a United States citizen; and

14 (16) Any additional identifying information about the  
15 covered offender.

16 (e) The following information shall also be included in  
17 the registry for each covered offender:

18 (1) A current photograph of the covered offender;

19 (2) A physical description of the covered offender,  
20 including a description of particular identifying  
21 characteristics such as scars or tattoos;



- 1           (3) Confirmation that the covered offender has provided  
2           digitized fingerprints and palm prints of the covered  
3           offender;
- 4           (4) Judgment of conviction, judgment of acquittal, or  
5           judicial determination of unfitness to proceed  
6           documenting the criminal offense or offenses for which  
7           the covered offender is registered;
- 8           (5) The text, or an electronic link to the text, of the  
9           provision of law defining the criminal offense or  
10          offenses for which the covered offender is registered;
- 11          (6) The criminal history of the covered offender, or an  
12          electronic link to the criminal history, including the  
13          date of all arrests and convictions, the status of  
14          parole, probation, or supervised release, registration  
15          status, and the existence of any outstanding arrest  
16          warrants for the covered offender;
- 17          (7) Confirmation that the covered offender has provided a  
18          DNA buccal swab sample as required by chapter 844D;
- 19          (8) Digitized copies of a valid driver's license or  
20          identification card issued to the covered offender, or  
21          an electronic link to such records; and



1 (9) Digitized copies of passports and documents  
2 establishing immigration status, or an electronic link  
3 to such records.

4 (f) Whenever a covered offender provides registration  
5 information, during initial registration as a covered offender  
6 or when providing notice of a change in registration  
7 information, the covered offender also shall sign a statement  
8 verifying that all of the registration information is accurate  
9 and current.

10 (g) In addition to the requirement under subsection (a) to  
11 register with the attorney general and comply with the  
12 provisions of this chapter until a court relieves the covered  
13 offender of the registration requirements of this chapter, each  
14 covered offender shall also register in person with the chief of  
15 police where the covered offender resides or is present.  
16 Registration under this subsection is for the purpose of  
17 providing the covered offender's photograph, fingerprints, and  
18 registration information. Registration under this subsection is  
19 required whenever the covered offender, whether or not a  
20 resident of this State, remains in this State for more than ten  
21 days or for an aggregate period exceeding thirty days in one



1 calendar year. Covered offenders required to register in person  
2 with the chief of police under this subsection shall register no  
3 later than three working days after the earliest of:

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

14 In addition to any other requirement to register under this  
15 subsection or subsection (a), each covered offender shall report  
16 in person every five years until June 30, 2009, and beginning on  
17 July 1, 2009, every year, within the thirty-day period following  
18 the offender's date of birth, to the chief of police where the  
19 covered offender resides, or to such other department or agency  
20 that may be designated by the attorney general in rules adopted  
21 pursuant to chapter 91 for purposes of the administration of



1 this subsection, and shall review the existing information in  
2 the registry that is within the offender's knowledge, correct  
3 any information that has changed or is inaccurate, provide any  
4 new information that may be required, and allow the police and  
5 such other department or agency designated by the attorney  
6 general to take a current photograph of the offender.

7 (h) The registration provisions of this section shall  
8 apply to all covered offenders without regard to:

9 (1) The date of the covered offender's conviction;

10 (2) The date of finding, pursuant to chapter 704, of the  
11 covered offender's unfitness to proceed; or

12 (3) The date of the covered offender's acquittal due to  
13 mental disease, disorder, or defect, pursuant to  
14 chapter 704.

15 (i) A covered offender shall not reside, permanently or  
16 temporarily, within five hundred feet of any public or private  
17 school, child care facility, playground, or park where children  
18 may gather."

19 SECTION 5. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



# H.B. NO. 2270

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

3 SECTION 7. This Act shall take effect upon its approval.  
4

INTRODUCED BY:

Clay

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JAN 21 2020



# H.B. NO. 227D

**Report Title:**

Sex Offenders; Sexual Assault in the First Degree; Mandatory Sentence; Residency Restriction

**Description:**

Classifies as first-degree sexual assault the sexual penetration of a child under 12 by a person 18 or older and mandates a 10-year minimum term of imprisonment without the possibility of parole. Establishes residency restrictions for persons who must register as a sex offender or offender against minors pursuant to Chapter 846E, HRS.

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