
A BILL FOR AN ACT

RELATING TO CRIMINAL OFFENSES AGAINST SENIORS.

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

1 SECTION 1. Section 707-710, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§707-710 Assault in the first degree. (1) A person
4 commits the offense of assault in the first degree if the person
5 [intentionally]:

6 (a) Intentionally or knowingly causes serious bodily
7 injury to another person[-]; or

8 (b) Intentionally or knowingly causes substantial bodily
9 injury to a person who is sixty years of age or older.

10 (2) The state of mind requirement for subsection (1)(b) of
11 this offense is not applicable to the fact that the person who
12 sustains substantial bodily injury was sixty years of age or
13 older. A person is strictly liable with respect to the
14 attendant circumstance that the person who sustains substantial
15 bodily injury was sixty years of age or older.

16 ~~[-(2)]~~ (3) Assault in the first degree is a class B
17 felony."



1 SECTION 2. Section 707-711, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§707-711 Assault in the second degree. (1) A person
4 commits the offense of assault in the second degree if:

5 (a) The person intentionally, knowingly, or recklessly
6 causes substantial bodily injury to another;

7 (b) The person recklessly causes serious bodily injury to
8 another;

9 (c) The person intentionally or knowingly causes bodily
10 injury to a correctional worker, as defined in section
11 710-1031(2), who is engaged in the performance of duty
12 or who is within a correctional facility;

13 (d) The person intentionally or knowingly causes bodily
14 injury to another with a dangerous instrument;

15 (e) The person intentionally or knowingly causes bodily
16 injury to an educational worker who is engaged in the
17 performance of duty or who is within an educational
18 facility. For the purposes of this paragraph,
19 "educational worker" means any administrator,
20 specialist, counselor, teacher, or employee of the
21 department of education or an employee of a charter



1 school; a person who is a volunteer, as defined in
2 section 90-1, in a school program, activity, or
3 function that is established, sanctioned, or approved
4 by the department of education; or a person hired by
5 the department of education on a contractual basis and
6 engaged in carrying out an educational function;

7 (f) The person intentionally or knowingly causes bodily
8 injury to any emergency medical services provider who
9 is engaged in the performance of duty. For the
10 purposes of this paragraph, "emergency medical
11 services provider" means emergency medical services
12 personnel, as defined in section 321-222, and
13 physicians, physician's assistants, nurses, nurse
14 practitioners, certified registered nurse
15 anesthetists, respiratory therapists, laboratory
16 technicians, radiology technicians, and social
17 workers, providing services in the emergency room of a
18 hospital;

19 (g) The person intentionally or knowingly causes bodily
20 injury to a person employed at a state-operated or
21 -contracted mental health facility. For the purposes



1 of this paragraph, "a person employed at a state-
2 operated or -contracted mental health facility"
3 includes health care professionals as defined in
4 section 451D-2, administrators, orderlies, security
5 personnel, volunteers, and any other person who is
6 engaged in the performance of a duty at a state-
7 operated or -contracted mental health facility;

8 (h) The person intentionally or knowingly causes bodily
9 injury to a person who:

10 (i) The defendant has been restrained from, by order
11 of any court, including an ex parte order,
12 contacting, threatening, or physically abusing
13 pursuant to chapter 586; or

14 (ii) Is being protected by a police officer ordering
15 the defendant to leave the premises of that
16 protected person pursuant to section 709-906(4),
17 during the effective period of that order;

18 (i) The person intentionally or knowingly causes bodily
19 injury to any firefighter or water safety officer who
20 is engaged in the performance of duty. For the
21 purposes of this paragraph, "firefighter" has the same



1 meaning as in section 710-1012 and "water safety
2 officer" means any public servant employed by the
3 United States, the State, or any county as a lifeguard
4 or person authorized to conduct water rescue or ocean
5 safety functions;

6 (j) The person intentionally or knowingly causes bodily
7 injury to a person who is engaged in the performance
8 of duty at a health care facility as defined in
9 section 323D-2. For purposes of this paragraph, "a
10 person who is engaged in the performance of duty at a
11 health care facility" shall include health care
12 professionals as defined in section 451D-2, physician
13 assistants, surgical assistants, advanced practice
14 registered nurses, nurse aides, respiratory
15 therapists, laboratory technicians, and radiology
16 technicians;

17 (k) The person intentionally or knowingly causes bodily
18 injury to a person who is engaged in providing home
19 health care services, as defined in section
20 431:10H-201; [œ]



1 (1) The person intentionally or knowingly causes bodily
2 injury to a person, employed or contracted to work by
3 a mutual benefit society, as defined in section
4 432:1-104, to provide case management services to an
5 individual in a hospital, health care provider's
6 office, or home, while that person is engaged in the
7 performance of those services[-]; or

8 (m) The person intentionally or knowingly causes bodily
9 injury to a person who is sixty years of age or older.

10 (2) The state of mind requirement for subsection (1) (m) of
11 this offense is not applicable to the fact that the person who
12 sustains bodily injury was sixty years of age or older. A
13 person is strictly liable with respect to the attendant
14 circumstance that the person who sustains bodily injury was
15 sixty years of age or older.

16 [~~2~~] (3) Assault in the second degree is a class C
17 felony."

18 SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~+~~] §708-812.55 [~~+~~] Unauthorized entry in a dwelling in the
21 first degree. (1) A person commits the offense of unauthorized



1 entry in a dwelling in the first degree if the person
2 intentionally or knowingly enters unlawfully into a dwelling and
3 another person was, at the time of the entry, lawfully present
4 in the dwelling who:

5 (a) Was [~~sixty-two~~] sixty years of age or older;

6 (b) Was an incapacitated person; or

7 (c) Had a developmental disability.

8 (2) For the purposes of this section:

9 "Developmental disability" shall have the same meaning as
10 in section 333E-2.

11 "Incapacitated person" shall have the same meaning as in
12 section 560:5-102.

13 (3) Unauthorized entry in a dwelling in the first degree
14 is a class B felony.

15 (4) It shall be an affirmative defense that reduces this
16 offense to a misdemeanor that, at the time of the unlawful
17 entry:

18 (a) There was a social gathering of invited guests at the
19 dwelling the defendant entered;

20 (b) The defendant intended to join the social gathering as
21 an invited guest; and



1 (c) The defendant had no intent to commit any unlawful act
2 other than the entry.

3 (5) The state of mind requirement for subsection (1)(a) of
4 this offense is not applicable to the fact that the person
5 lawfully present in the dwelling at the time of the entry was
6 sixty years of age or older. A person is strictly liable with
7 respect to the attendant circumstance that the person lawfully
8 present in the dwelling at the time of the entry was sixty years
9 or age or older."

10 SECTION 4. Section 708-830.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§708-830.5 Theft in the first degree. (1) A person
13 commits the offense of theft in the first degree if the person
14 commits theft:

15 (a) Of property or services, the value of which exceeds
16 \$20,000;

17 (b) Of a firearm;

18 (c) Of dynamite or other explosive; [~~or~~]

19 (d) Of property or services during an emergency period
20 proclaimed by the governor or mayor pursuant to
21 chapter 127A, within the area covered by the emergency



1 or disaster under chapter 127A, the value of which
2 exceeds \$300[-];

3 (e) Of property from the person of another who is sixty
4 years of age or older; or

5 (f) Of property or services, the value of which exceeds
6 \$750, from a person who is sixty years of age or
7 older.

8 (2) The state of mind requirement for subsections (1)(e)
9 or (1)(f) of this offense is not applicable to the fact that the
10 owner of the property, the provider of the services, or the
11 individual from whose person the property was taken was sixty
12 years of age or older. A person is strictly liable with respect
13 to the attendant circumstance that the owner of the property,
14 the provider of the services, or the individual from whose
15 person the property was taken was sixty years of age or older.

16 [~~2~~] (3) Theft in the first degree is a class B felony."

17 SECTION 5. Section 708-831, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§708-831 Theft in the second degree.** (1) A person
20 commits the offense of theft in the second degree if the person
21 commits theft:



- 1 (a) Of property from the person of another;
- 2 (b) Of property or services the value of which exceeds
3 \$750;
- 4 (c) Of an aquacultural product or part thereof from
5 premises that are fenced or enclosed in a manner
6 designed to exclude intruders or there is prominently
7 displayed on the premises a sign or signs sufficient
8 to give notice and reading as follows: "Private
9 Property", "No Trespassing", or a substantially
10 similar message;
- 11 (d) Of agricultural equipment, supplies, or products, or
12 part thereof, the value of which exceeds \$100 but does
13 not exceed \$20,000, or of agricultural products that
14 exceed twenty-five pounds, from premises that are
15 fenced, enclosed, or secured in a manner designed to
16 exclude intruders or there is prominently displayed on
17 the premises a sign or signs sufficient to give notice
18 and reading as follows: "Private Property", "No
19 Trespassing", or a substantially similar message; or
20 if at the point of entry of the premise, a crop is
21 visible. The sign or signs, containing letters not



1 less than two inches in height, shall be placed along
2 the boundary line of the land in a manner and in such
3 a position as to be clearly noticeable from outside
4 the boundary line. Possession of agricultural
5 products without ownership and movement certificates,
6 when a certificate is required pursuant to chapter
7 145, is prima facie evidence that the products are or
8 have been stolen; [~~or~~]

9 (e) Of agricultural commodities that are generally known
10 to be marketed for commercial purposes. Possession of
11 agricultural commodities without ownership and
12 movement certificates, when a certificate is required
13 pursuant to section 145-22, is prima facie evidence
14 that the products are or have been stolen; provided
15 that "agriculture commodities" has the same meaning as
16 in section 145-21[-]; or

17 (f) Of property or services, the value of which exceeds
18 \$250, from a person who is sixty years of age or
19 older.

20 (2) The state of mind requirement for subsection (1)(f) of
21 this offense is not applicable to the fact that the owner of the



1 property or the provider of the service was sixty years of age
2 or older. A person is strictly liable with respect to the
3 attendant circumstance that the owner of the property or the
4 provider of the service was sixty years of age or older.

5 [~~2~~] (3) Theft in the second degree is a class C felony.

6 A person convicted of committing the offense of theft in the
7 second degree under [+] subsection (1) [+] (c) and (d) shall be
8 sentenced in accordance with chapter 706, except that for the
9 first offense, the court may impose a minimum sentence of a fine
10 of at least \$1,000 or two-fold damages sustained by the victim,
11 whichever is greater."

12 SECTION 6. Section 708-851, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§708-851 **Forgery in the first degree.** (1) A person
15 commits the offense of forgery in the first degree if, with
16 intent to defraud, the person falsely makes, completes,
17 endorses, or alters a written instrument, or utters a forged
18 instrument, or fraudulently encodes the magnetic ink character
19 recognition numbers, which is or purports to be, or which is
20 calculated to become or to represent if completed:



- 1 (a) Part of an issue of stamps, securities, or other
2 valuable instruments issued by a government or
3 governmental agency; [~~or~~]
- 4 (b) Part of an issue of stock, bonds, or other instruments
5 representing interests in or claims against a
6 corporate or other organization or its property[-]; or
- 7 (c) All or part of a deed, will, codicil, contract,
8 assignment, commercial instrument, or other instrument
9 which does or may evidence, create, transfer,
10 terminate, or otherwise affect a legal right,
11 interest, obligation, or status, and the ostensible
12 maker or drawer of the written instrument or forged
13 instrument is a person who is sixty years of age or
14 older.

15 (2) The state of mind requirement for subsection (1)(c) of
16 this offense is not applicable to the fact that the ostensible
17 maker or drawer of the written instrument or forged instrument
18 is a person who is sixty years of age or older. A person is
19 strictly liable with respect to the attendant circumstance that
20 the ostensible maker or drawer of the written instrument or



1 forged instrument is a person who is sixty years of age or
2 older.

3 [~~2~~] (3) Forgery in the first degree is a class B
4 felony."

5 SECTION 7. Section 708-852, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§708-852 Forgery in the second degree.** (1) A person
8 commits the offense of forgery in the second degree if [~~with~~]:

9 (a) With intent to defraud, the person falsely makes,
10 completes, endorses, or alters a written instrument,
11 or utters a forged instrument, or fraudulently encodes
12 the magnetic ink character recognition numbers, which
13 is or purports to be, or which is calculated to become
14 or to represent if completed, a deed, will, codicil,
15 contract, assignment, commercial instrument, or other
16 instrument which does or may evidence, create,
17 transfer, terminate, or otherwise affect a legal
18 right, interest, obligation, or status[-]; or

19 (b) With intent to defraud falsely makes, completes,
20 endorses, or alters a written instrument, or utters a
21 forged instrument and the ostensible maker or drawer



1 of the written instrument or forged instrument is a
2 person who is sixty years of age or older.

3 (2) The state of mind requirement for subsection (1)(b) of
4 this offense is not applicable to the fact that the ostensible
5 maker or drawer of the written instrument or forged instrument
6 is a person who is sixty years of age or older. A person is
7 strictly liable with respect to the attendant circumstance that
8 the ostensible maker or drawer of the written instrument or
9 forged instrument is a person who is sixty years of age or
10 older.

11 [~~2~~] (3) Forgery in the second degree is a class C
12 felony."

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: Guay Fichon
Linda Lehigane Jan Balbi
Ch Todd
David Camas
Mark
Richard K. Tucker
Or

Myr. Alt

Disakitngaw

Lyn Delort

Nicole E. Lowen

Q. Q. Q

Ang Am

Tim Wilgen

Stratgalle

Al Del

Dal Alt

Tom By

Roy M. Bull

DeKushum

Gothic Kieren

Allea Blotti

Jakea Or

Richard Cruz

Amy Penoso

Sham i Or

Vue Or

S. Cui

T. Seal

Marky. He

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H.B. NO. 1874

Report Title:

Offenses Against Seniors; Penal Code Revisions; Kupuna Caucus

Description:

Lowers the age of crimes against seniors to sixty years of age, and makes certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the victim's age.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

