
A BILL FOR AN ACT

RELATING TO THE ELDERLY.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's elderly
3 population is growing in size and that financial exploitation of
4 elderly persons is on the rise. The legislature also finds that
5 it is important to respect elders or kupuna, who have
6 contributed their hard work, knowledge, and wisdom to society.
7 Therefore, in keeping with these values, it is essential that
8 elders be honored by protecting them from financial exploitation
9 and abuse.

10 The purpose of this Act is to prevent and deter financial
11 exploitation and abuse of elders by creating the offense of
12 financial exploitation of an elder, providing enhanced penalties
13 for those convicted of the offense, and requiring financial
14 institutions to report instances of suspected financial abuse of
15 an elder directly to the police and to report suspected
16 financial abuse to the department of human services under
17 certain circumstances.



1 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§708- Financial exploitation of an elder. (1) A
5 person commits the offense of financial exploitation of an elder
6 if the person intentionally obtains or exerts control over the
7 assets, money, or property of an elder and the person recklessly
8 disregards the risk that the individual is an elder and:

9 (a) Breaches the person's fiduciary duty to the elder,
10 resulting in the unauthorized appropriation, sale, or
11 transfer of assets, money, or property of the elder;
12 or

13 (b) Intends to deprive the elder of assets, money, or
14 property without authorization.

15 (2) Financial exploitation of an elder is a:

16 (a) Misdemeanor if the value of the assets, money, or
17 property is not greater than \$750;

18 (b) Class C felony if the value of the assets, money, or
19 property is \$750 or more but less than \$5,000;

20 (c) Class B felony if the value of the assets, money, or
21 property is \$5,000 or more but less than \$10,000; and



1 (d) Class A felony if the value of the assets, money, or
2 property is \$10,000 or more.

3 (3) As used in this section, "elder" means any person
4 sixty-two years of age or older."

5 SECTION 3. Section 706-660.2, Hawaii Revised Statutes, is
6 amended by amending subsections (1) and (2) to read as follows:

7 "(1) Notwithstanding section 706-669, if not subjected to
8 an extended term of imprisonment pursuant to section 706-662, a
9 person shall be sentenced to a mandatory minimum term of
10 imprisonment without possibility of parole as provided in
11 subsection (2) if:

12 (a) The person~~[7]~~:

13 (i) Who in the course of committing or attempting to
14 commit a felony, causes the death or inflicts
15 serious or substantial bodily injury upon another
16 person who is:

17 ~~[(i)]~~ (A) ~~[Sixty]~~ Sixty-two years of age or
18 older;

19 ~~[(ii)]~~ (B) Blind, a paraplegic, or a quadriplegic;
20 or

21 ~~[(iii)]~~ (C) Eight years of age or younger; ~~[and]~~ or



- 1 (ii) Has been convicted of financial exploitation of
- 2 an elder under section 708- ; and
- 3 (b) Such disability is known or reasonably should be known
- 4 to the defendant.
- 5 (2) The term of imprisonment for a person sentenced
- 6 pursuant to subsection (1) shall be as follows:
- 7 (a) For murder in the second degree--fifteen years;
- 8 (b) For a class A felony--six years, eight months;
- 9 (c) For a class B felony--three years, four months; and
- 10 (d) For a class C felony--one year, eight months."

PART II

12 SECTION 4. Section 412:3-114.5, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§412:3-114.5 Mandatory reporting of suspected financial**
15 **abuse of an elder.** (a) A financial institution shall report
16 suspected financial abuse that is directed towards, targets, or
17 is committed against an elder to the [~~department of human~~
18 ~~services and the~~] appropriate county police department and may
19 report suspected financial abuse to the department, if:



1 (1) In connection with providing financial services to the
2 elder, the officer or employee of a financial
3 institution:

4 (A) Has direct contact with the elder; or

5 (B) Reviews or approves the elder's financial
6 documents, records, or transactions; and

7 (2) The officer or employee, within the scope of
8 employment or professional practice:

9 (A) Observes or has knowledge of an incident the
10 officer or employee believes in good faith
11 appears to be financial abuse; or

12 (B) In the case of officers or employers who do not
13 have direct contact with the elder, has a good
14 faith suspicion that financial abuse has occurred
15 or may be occurring, based solely on the
16 information present at the time of reviewing or
17 approving the document, record, or transaction.

18 (b) Suspected financial abuse shall be reported by
19 telephone [~~7-facsimile,~~] or electronic device, immediately or as
20 soon as practicably possible, to the [~~department and the~~]



1 appropriate county police department ~~[-]~~; provided that suspected
2 financial abuse may be reported to the department.

3 ~~[(c) Upon notification by a financial institution of~~
4 ~~suspected financial abuse, the department, in a timely manner,~~
5 ~~shall determine whether the department has jurisdiction over the~~
6 ~~elder involved and proceed in accordance with chapter 346.~~

7 ~~(d) Upon notification by a financial institution of~~
8 ~~suspected financial abuse, the county police department, in a~~
9 ~~timely manner, shall proceed with a criminal investigation.]~~

10 (c) The department shall inform the appropriate county
11 police department of all reports received by the department
12 regarding a case of financial abuse; provided that the name of
13 the person who reported the case of financial abuse shall be
14 released to the appropriate county police department pursuant
15 only to court order or the person's consent.

16 (d) The department shall inform the appropriate county
17 police department or office of the prosecuting attorney of any
18 relevant information concerning a case of financial abuse when
19 the information is required by the county police department or
20 the office of the prosecuting attorney for the investigation or
21 prosecution of that case; provided that the name of the person



1 who reported the case of financial abuse shall be released to
2 the county police department or the office of the prosecuting
3 attorney pursuant only to court order or the person's consent.

4 (e) Notwithstanding any other state law to the contrary,
5 including but not limited to laws concerning confidentiality,
6 any person, including a financial institution, who:

7 (1) Participates in the making of a report pursuant to
8 this section; and

9 (2) Believes, in good faith, that the action is warranted
10 by facts known to that person,

11 shall have immunity from any liability, civil or criminal, that
12 might be otherwise incurred or imposed by or as a result of the
13 making of the report. Any person making the report shall have
14 the same immunity with respect to participation in any judicial
15 proceeding resulting from the report.

16 (f) For the purposes of this section:

17 "Department" means the department of human services.

18 "Elder" means a person who is sixty-two years of age or
19 older.

20 "Financial abuse" means to wrongfully take, appropriate,
21 obtain, or retain, or assist in taking, appropriating,



1 obtaining, or retaining, real or personal property of an elder
2 by any means, including undue influence, or with intent to
3 defraud the elder."

4 PART III

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

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on December 31,
11 2059.



Report Title:

Elderly; Financial Exploitation; Mandatory Reporting; Penal Code

Description:

Establishes the offense of financial exploitation of an elder and provides enhanced penalties. Amends mandatory reporting requirements for suspected financial abuse of an elder. Requires DHS to share records with the appropriate county police departments or offices of the prosecuting attorney. Effective 12/31/2059. (HD1)

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