A BILL FOR AN ACT

RELATING TO CRIMINAL OFFENSES AGAINST SENIORS.

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

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

"§707-710 Assault in the first degree. (1) A person commits the offense of assault in the first degree if the person intentionally or knowingly causes [serious):

(a) Serious bodily injury to another person[–]; or

(b) Substantial bodily injury to a person who is ___ years of age or older.

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

[±(2+)] (3) Assault in the first degree is a class B felony."
SECTION 2. Section 707-711, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

(e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education or an employee of a charter
school; a person who is a volunteer, as defined in
section 90-1, in a school program, activity, or
function that is established, sanctioned, or approved
by the department of education; or a person hired by
the department of education on a contractual basis and
engaged in carrying out an educational function;

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

(g) The person intentionally or knowingly causes bodily
injury to a person employed at a state-operated or
contracted mental health facility. For the purposes
of this paragraph, "a person employed at a state-operated or -contracted mental health facility" includes health care professionals as defined in section 451D-2, administrators, orderlies, security personnel, volunteers, and any other person who is engaged in the performance of a duty at a state-operated or -contracted mental health facility;

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

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

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

(i) The person intentionally or knowingly causes bodily injury to any firefighter or water safety officer who is engaged in the performance of duty. For the purposes of this paragraph, "firefighter" has the same
meaning as in section 710-1012 and "water safety
c officer" means any public servant employed by the
United States, the State, or any county as a lifeguard
or person authorized to conduct water rescue or ocean
safety functions;

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

(k) The person intentionally or knowingly causes bodily
injury to a person who is engaged in providing home
health care services, as defined in section
431:10H-201; [ef]
(1) The person intentionally or knowingly causes bodily injury to a person, employed or contracted to work by a mutual benefit society, as defined in section 432:1-104, to provide case management services to an individual in a hospital, health care provider's office, or home, while that person is engaged in the performance of those services[; or]

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

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

(3) Assault in the second degree is a class C felony."

SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is amended to read as follows:
Unauthorized entry in a dwelling in the first degree. (1) A person commits the offense of unauthorized entry in a dwelling in the first degree if the person intentionally or knowingly enters unlawfully into a dwelling and another person was, at the time of the entry, lawfully present in the dwelling who:

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

(b) Was an incapacitated person; or

(c) Had a developmental disability.

(2) For the purposes of this section:

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

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

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

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

(a) There was a social gathering of invited guests at the dwelling the defendant entered;
(b) The defendant intended to join the social gathering as an invited guest; and

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

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

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

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

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

(b) Of a firearm;

(c) Of dynamite or other explosive; [e=]
(d) Of property or services during an emergency period
proclaimed by the governor or mayor pursuant to
chapter 127A, within the area covered by the emergency
or disaster under chapter 127A, the value of which
exceeds $300 [ ];

(e) Of property from the person of another who is


years of age or older; or

(f) Of property or services, the value of which exceeds


$750, from a person who is years of age or


older.

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

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

SECTION 5. Section 708-831, Hawaii Revised Statutes, is
amended to read as follows:
§708-831 Theft in the second degree. (1) A person commits the offense of theft in the second degree if the person commits theft:

(a) Of property from the person of another;

(b) Of property or services the value of which exceeds $750;

(c) Of an aquacultural product or part thereof from premises that are fenced or enclosed in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property", "No Trespassing", or a substantially similar message;

(d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds $100 but does not exceed $20,000, or of agricultural products that exceed twenty-five pounds, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading as follows: "Private Property", "No
Trespassing", or a substantially similar message; or if at the point of entry of the premise, a crop is visible. The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land in a manner and in such a position as to be clearly noticeable from outside the boundary line. Possession of agricultural products without ownership and movement certificates, when a certificate is required pursuant to chapter 145, is prima facie evidence that the products are or have been stolen; [or]

(e) Of agricultural commodities that are generally known to be marketed for commercial purposes. Possession of agricultural commodities without ownership and movement certificates, when a certificate is required pursuant to section 145-22, is prima facie evidence that the products are or have been stolen; provided that "agriculture commodities" has the same meaning as in section 145-21[→]; or
(f) Of property or services, the value of which exceeds $250, from a person who is ________ years of age or older.

(2) The state of mind requirement for subsection (1)(f) of this offense is not applicable to the fact that the owner of the property or provider of the services was ________ years of age or older. A person is strictly liable with respect to the attendant circumstance that the owner of the property or provider of the services was ________ years of age or older.

(3) Theft in the second degree is a class C felony. A person convicted of committing the offense of theft in the second degree under subsection (1)(c) and (d) shall be sentenced in accordance with chapter 706, except that for the first offense, the court may impose a minimum sentence of a fine of at least $1,000 or two-fold damages sustained by the victim, whichever is greater."

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

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

(a) Part of an issue of stamps, securities, or other
valuable instruments issued by a government or
governmental agency; or

(b) Part of an issue of stock, bonds, or other instruments
representing interests in or claims against a
corporate or other organization or its property; or

(c) All or part of a deed, will, codicil, contract,
assignment, commercial instrument, or other instrument
which does or may evidence, create, transfer,
terminate, or otherwise affect a legal right,
interest, obligation, or status, and the ostensible
maker or drawer of the written instrument or forged
instrument is a person who is years of age
or older.

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

[(42)] (3) Forged in the first degree is a class B felony."

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

"$708-852 Forged in the second degree. (1) A person commits the offense of forgery in the second degree if, with intent to defraud[, the]:

(a) The person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, or fraudulently encodes the magnetic ink character recognition numbers, which is or purports to be, or which is calculated to become or to represent if completed, a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer,
terminate, or otherwise affect a legal right, interest, obligation, or status; or

(b) The person falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument and the ostensible maker or drawer of the written instrument or forged instrument is a person who is years of age or older.

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

(3) Forgery in the second degree is a class C felony."
Report Title:
Offenses Against Seniors; Penal Code Revisions; Kupuna Caucus

Description:
Lowers the age at which enhanced penalties apply for crimes against seniors from sixty-two years of age to an unspecified age. Makes commission of certain criminal offenses against a senior's person or property applicable regardless of the perpetrator's knowledge of the senior victim's age. Effective 7/1/2050. (HD1)

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