

JAN 17 2020

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# 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 [~~+~~] (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



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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; [~~or~~]



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 [~~+~~] (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; [øx]
- 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~~]; 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.  
16

INTRODUCED BY:

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# S.B. NO. 2334

**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.*

