

JAN 22 2021

A BILL FOR AN ACT

RELATING TO CRIMES 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 by amending subsection (1) to read as follows:

3 "(1) A person commits the offense of assault in the first
4 degree if the person intentionally or knowingly causes
5 [serious]:

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

7 (b) Substantial bodily injury to a person who is sixty
8 years of age or older, and the age of the injured
9 person is known or reasonably should be known to the
10 person causing the injury."

11 SECTION 2. Section 707-711, Hawaii Revised Statutes, is
12 amended by amending subsection (1) to read as follows:

13 "(1) A person commits the offense of assault in the second
14 degree if:

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



- 1 (b) The person recklessly causes serious bodily injury to
2 another;
- 3 (c) The person intentionally or knowingly causes bodily
4 injury to a correctional worker, as defined in section
5 710-1031(2), who is engaged in the performance of duty
6 or who is within a correctional facility;
- 7 (d) The person intentionally or knowingly causes bodily
8 injury to another with a dangerous instrument;
- 9 (e) The person intentionally or knowingly causes bodily
10 injury to an educational worker who is engaged in the
11 performance of duty or who is within an educational
12 facility. For the purposes of this paragraph,
13 "educational worker" means any administrator,
14 specialist, counselor, teacher, or employee of the
15 department of education or an employee of a charter
16 school; a person who is a volunteer, as defined in
17 section 90-1, in a school program, activity, or
18 function that is established, sanctioned, or approved
19 by the department of education; or a person hired by
20 the department of education on a contractual basis and
21 engaged in carrying out an educational function;



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

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



1 engaged in the performance of a duty at a state-
2 operated or -contracted mental health facility;
3 (h) The person intentionally or knowingly causes bodily
4 injury to a person who:
5 (i) The defendant has been restrained from, by order
6 of any court, including an ex parte order,
7 contacting, threatening, or physically abusing
8 pursuant to chapter 586; or
9 (ii) Is being protected by a police officer ordering
10 the defendant to leave the premises of that
11 protected person pursuant to section 709-906(4),
12 during the effective period of that order;
13 (i) The person intentionally or knowingly causes bodily
14 injury to any firefighter or water safety officer who
15 is engaged in the performance of duty. For the
16 purposes of this paragraph, "firefighter" has the same
17 meaning as in section 710-1012 and "water safety
18 officer" means any public servant employed by the
19 United States, the State, or any county as a lifeguard
20 or person authorized to conduct water rescue or ocean
21 safety functions;



- 1 (j) The person intentionally or knowingly causes bodily
2 injury to a person who is engaged in the performance
3 of duty at a health care facility as defined in
4 section 323D-2. For purposes of this paragraph, "a
5 person who is engaged in the performance of duty at a
6 health care facility" shall include health care
7 professionals as defined in section 451D-2, physician
8 assistants, surgical assistants, advanced practice
9 registered nurses, nurse aides, respiratory
10 therapists, laboratory technicians, and radiology
11 technicians;
- 12 (k) The person intentionally or knowingly causes bodily
13 injury to a person who is engaged in providing home
14 health care services, as defined in section
15 431:10H-201; [~~o~~]
- 16 (l) The person intentionally or knowingly causes bodily
17 injury to a person, employed or contracted to work by
18 a mutual benefit society, as defined in section
19 432:1-104, to provide case management services to an
20 individual in a hospital, health care provider's



1 office, or home, while that person is engaged in the
2 performance of those services[-]; or

3 (m) The person intentionally or knowingly causes bodily
4 injury to a person who is sixty years of age or older,
5 and the age of the injured person is known or
6 reasonably should be known to the person causing the
7 injury."

8 SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is
9 amended by amending its title and subsection (1) to read as
10 follows:

11 "[+]§708-812.55[+] **Unauthorized entry in a dwelling in the**
12 **first degree.** (1) A person commits the offense of unauthorized
13 entry in a dwelling in the first degree if the person
14 intentionally or knowingly enters unlawfully into a dwelling and
15 another person was, at the time of the entry, lawfully present
16 in the dwelling who:

17 (a) Was [~~sixty-two~~] sixty years of age or older[+], and
18 the age of the person lawfully present in the dwelling
19 was known or reasonably should have been known to the
20 person who unlawfully entered;

21 (b) Was an incapacitated person; or



1 (c) Had a developmental disability."

2 SECTION 4. Section 708-830.5, Hawaii Revised Statutes, is
3 amended by amending subsection (1) to read as follows:

4 "(1) A person commits the offense of theft in the first
5 degree if the person commits theft:

6 (a) Of property or services, the value of which exceeds
7 \$20,000;

8 (b) Of a firearm;

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

10 (d) Of property or services during an emergency period
11 proclaimed by the governor or mayor pursuant to
12 chapter 127A, within the area covered by the emergency
13 or disaster under chapter 127A, the value of which
14 exceeds \$300[-];

15 (e) Of property from the person of another who is sixty
16 years of age or older, and the age of the property
17 owner is known or reasonably should be known to the
18 person who commits theft; or

19 (f) Of property or services, the value of which exceeds
20 \$750, from a person who is sixty years of age or
21 older, and the age of the property owner is known or



1 reasonably should be known to the person who commits
2 theft."

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

5 "**§708-831 Theft in the second degree.** (1) A person
6 commits the offense of theft in the second degree if the person
7 commits theft:

8 (a) Of property from the person of another;

9 (b) Of property or services the value of which exceeds
10 \$750;

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

18 (d) Of agricultural equipment, supplies, or products, or
19 part thereof, the value of which exceeds \$100 but does
20 not exceed \$20,000, or of agricultural products that
21 exceed twenty-five pounds, from premises that are



1 fenced, enclosed, or secured in a manner designed to
2 exclude intruders or there is prominently displayed on
3 the premises a sign or signs sufficient to give notice
4 and reading as follows: "Private Property", "No
5 Trespassing", or a substantially similar message; or
6 if at the point of entry of the premise, a crop is
7 visible. The sign or signs, containing letters not
8 less than two inches in height, shall be placed along
9 the boundary line of the land in a manner and in such
10 a position as to be clearly noticeable from outside
11 the boundary line. Possession of agricultural
12 products without ownership and movement certificates,
13 when a certificate is required pursuant to chapter
14 145, is prima facie evidence that the products are or
15 have been stolen; [øx]

- 16 (e) Of agricultural commodities that are generally known
17 to be marketed for commercial purposes. Possession of
18 agricultural commodities without ownership and
19 movement certificates, when a certificate is required
20 pursuant to section 145-22, is prima facie evidence
21 that the products are or have been stolen; provided



1 that "agriculture commodities" has the same meaning as
2 in section 145-21[-]; or
3 (f) Of property or services, the value of which exceeds
4 \$250, from a person who is sixty years of age or
5 older, and the age of the property owner is known or
6 reasonably should be known to the person who commits
7 theft.

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

15 SECTION 6. Section 708-851, Hawaii Revised Statutes, is
16 amended by amending subsection (1) to read as follows:

17 "(1) A person commits the offense of forgery in the first
18 degree if, with intent to defraud, the person falsely makes,
19 completes, endorses, or alters a written instrument, or utters a
20 forged instrument, or fraudulently encodes the magnetic ink



1 character recognition numbers, which is or purports to be, or
2 which is calculated to become or to represent if completed:

- 3 (a) Part of an issue of stamps, securities, or other
4 valuable instruments issued by a government or
5 governmental agency; [~~or~~]
- 6 (b) Part of an issue of stock, bonds, or other instruments
7 representing interests in or claims against a
8 corporate or other organization or its property[-]; or
- 9 (c) All or part of a deed, will, codicil, contract,
10 assignment, commercial instrument, or other instrument
11 which does or may evidence, create, transfer,
12 terminate, or otherwise affect a legal right,
13 interest, obligation, or status; and
- 14 (i) The purported maker or drawer of the written
15 instrument or forged instrument is a person who
16 is sixty years of age or older; and
- 17 (ii) The age of the purported maker or drawer of the
18 written instrument or forged instrument is known
19 or reasonably should be known to the person who
20 falsely makes, completes, endorses, or alters the
21 instrument; utters the forged instrument; or



1 fraudulently encodes the magnetic ink character
2 recognition numbers of the instrument."

3 SECTION 7. Section 708-852, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of forgery in the second
6 degree if, with intent to defraud[~~7~~the]:

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

17 (b) The person falsely makes, completes, endorses, or
18 alters a written instrument, or utters a forged
19 instrument; and

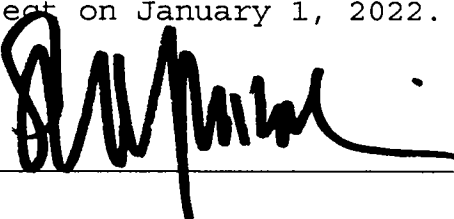


- 1 (i) The purported maker or drawer of the written
- 2 instrument or forged instrument is a person who
- 3 is sixty years of age or older; and
- 4 (ii) The age of purported maker or drawer of the
- 5 written instrument or forged instrument is known
- 6 or reasonably should be known to the person who
- 7 falsely makes, completes, endorses, or alters a
- 8 written instrument; or utters a forged
- 9 instrument."

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on January 1, 2022.

13

INTRODUCED BY: 



S.B. NO. 837

Report Title:

Kupuna Caucus; Offenses Against Seniors; Penal Code; Revisions

Description:

Lowers the age at which enhanced penalties apply for crimes against seniors from sixty-two years of age to sixty years of age. Makes commission of certain criminal offenses against a senior's person or property applicable if the perpetrator knows or reasonably should know the senior victim's age. Effective 1/1/2022.

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

