

JAN 20 2023

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that financial
2 exploitation of vulnerable adults is a growing form of abuse.
3 Vulnerable adults are adults who, due to illness or incapacity,
4 are unable to manage their own care or carry out essential daily
5 activities without assistance. Vulnerable adults, including the
6 elderly or disabled, rely on caregivers for basic daily tasks,
7 such as paying bills and managing finances. Financial
8 exploitation of a vulnerable person occurs when a person misuses
9 or takes the assets of a vulnerable person for that person's own
10 personal benefit. This frequently occurs without the explicit
11 knowledge or consent of the vulnerable person and deprives the
12 victim of vital financial resources. Assets are commonly taken
13 through deception, false pretenses, coercion, harassment,
14 duress, and threats, and exploiters are often trusted
15 individuals like family members, caregivers, neighbors, friends,
16 acquaintances, attorneys, bank employees, pastors, doctors, or
17 nurses.



1 The legislature further finds that the rate of financial
2 exploitation of vulnerable adults is high, yet vastly
3 under-reported. For example, one in twenty older adults
4 indicate some form of perceived financial mistreatment occurring
5 in the recent past, but only one in forty-four cases of elder
6 financial abuse is reported.

7 Accordingly, the purpose of this Act is to provide
8 additional protection to vulnerable adults by making the
9 financial exploitation of a vulnerable adult by a caregiver a
10 class A felony.

11 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
12 amended by adding a new section to part IV to be appropriately
13 designated and to read as follows:

14 "§708- Financial exploitation of a vulnerable adult;
15 caregivers. (1) A caregiver commits the offense of financial
16 exploitation of a vulnerable adult if the caregiver
17 intentionally or knowingly:

18 (a) Takes, withholds, misappropriates, or uses a
19 vulnerable adult's money, real property, or personal
20 property without authorization;



- 1 (b) Breaches a fiduciary duty to the vulnerable adult,
2 such as misusing a power of attorney or guardianship
3 privileges, resulting in the unauthorized
4 appropriation, sale, or transfer of property;
- 5 (c) Takes the vulnerable adult's personal assets without
6 authorization;
- 7 (d) Misappropriates or misuses any money belonging to the
8 vulnerable adult from a personal or joint account;
- 9 (e) Fails to effectively use a vulnerable adult's income
10 and assets for the necessities required for the
11 vulnerable adult's support and maintenance; provided
12 that the caregiver has a duty to expend income and
13 assets on behalf of the vulnerable adult for those
14 purposes; or
- 15 (f) Uses coercion, manipulation, threats, intimidation,
16 misrepresentation, or undue influence to take,
17 appropriate, sell, transfer, or withhold a vulnerable
18 adult's money, assets, real property, or personal
19 property;
- 20 provided that the total value of the money, assets, or property
21 taken or used exceeds \$50,000.



1 (2) Financial exploitation of a vulnerable adult is a
2 class A felony.

3 (3) For the purposes of this section:

4 "Caregiver" means any person who has knowingly and
5 willingly assumed responsibility, on a part-time or full-time
6 basis, for the care, supervision, or physical control of, or who
7 has a legal or contractual duty to care for the health, safety,
8 and welfare of a vulnerable adult.

9 "Vulnerable adult" means a person eighteen years of age or
10 older who, because of mental, developmental, or physical
11 impairment, is unable to:

12 (1) Communicate or make responsible decisions to manage
13 the person's own care or resources;

14 (2) Carry out or arrange for essential activities of daily
15 living; or

16 (3) Protect oneself from financial exploitation, as
17 defined in section 346-222."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 4. New statutory material is underscored.



S.B. NO. 694

1 SECTION 5. This Act shall take effect on July 1, 2023.

2

INTRODUCED BY:

Kurt Ferrel



S.B. NO. 694

Report Title:

Penal Code; Caregivers; Financial Exploitation; Elder Abuse;
Vulnerable Adults

Description:

Makes financial exploitation of a vulnerable adult by a
caregiver a Class A felony.

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