

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 10:10 AM
To: JUDtestimony
Cc: deborah.stone-walls@co.maui.hi.us
Subject: *Submitted testimony for HB432 on Feb 28, 2017 14:00PM*

HB432

Submitted on: 2/27/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Stone-Walls	Maui County Office on Aging	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE ST-DA

February 28, 2017

The Honorable Scott Y. Nishimoto, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Nishimoto and Members:

SUBJECT: House Bill No. 432, H.D. 1, Relating to the Elderly

I am Stason Tanaka, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 432, H.D. 1, Relating to the Elderly.

This bill appropriately provides an additional mechanism to protect the elderly against financial exploitation by a caregiver by making the penalty for anyone who violates this chapter a felony offense.

We believe this legislation will improve compliance among caregivers who are entrusted to care for the health, safety, and welfare of an elder. This bill will also provide better protection to the elderly and deter violations of the chapter.

The HPD urges you to support House Bill No. 432, H.D. 1, Relating to the Elderly.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

A handwritten signature in black ink, appearing to be "Cary Okimoto", written over a horizontal line.

Cary Okimoto
Acting Chief of Police

A handwritten signature in black ink, appearing to be "Stason Tanaka", written in a cursive style.

Stason Tanaka, Captain
Criminal Investigation Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

CHRISTOPHER D.W. YOUNG
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE SCOTT NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai`i

February 28, 2017

RE: H.B. 432; RELATING TO THE ELDERLY.

Chair Nishimoto, Vice-Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney submits the following testimony in support of the intent with concerns.

The purpose of H.B. 432, H.D. 1, is to provide additional mechanisms within the Hawai'i Revised Statutes, to provide protection for elder persons who are the target of *financial* exploitation. Specifically, the bill seeks to protect elderly persons from caregivers who abuse their fiduciary duty and financially exploit elders.

Although the law currently provides enhanced penalties for felonies that cause death or serious bodily injury to an elderly person, there are no such penalties for targeting elderly persons for financial crimes. Nevertheless, financial crimes can be just as devastating as physical injuries, leaving victims in isolation, vulnerable and scared, at a time in their life when they are typically less capable and have less time to recover emotionally or rebuild their finances. Moreover, financial crimes against the elderly are not only committed by strangers--via internet, mail, investment schemes and other methods--but also by relatives and caregivers, who have more opportunity to take an elder's money, property, and valuables; deny companionship, services or medical care; or cash pension or social security checks without permission.

The Department supports the intent of H.B. 432, H.D. 1, however, as currently proposed, the Department expresses concerns in the following area. Currently, H.B. 432, H.D. 1, has a blank threshold dollar amount and felony classification. The Department would suggest implementing a threshold of \$50,000 while classifying the offense as nothing less than a Class A felony. This proposal is to ensure that if codified, this particular statute would be effectively

used. Currently, Hawaii's theft statutes cover financial exploitation cases and involve the proof of fewer elements. Theft in the First Degree and Theft in the Second Degree are classified as class B and class C felonies respectively. If H.B. 432, H.D. 1 was enacted as a class B or C felony, use of the statute would be near non-existent. This concern is illustrated by the use of Act 244, Session 2012 which created §d708-8303, H.R.S., Unlicensed Contractor Fraud in the First Degree. Initially the proposed bill classified the charge of Unlicensed Contractor Fraud in the First Degree as a class A felony offense. However, various amendments were made and the bill passed in the current form classifying the charge as a class B felony. Since its enactment in 2012, the charge of Unlicensed Contractor Fraud appears to only be used on a couple of cases statewide. This infrequent use of the charge is directly related to the fact that our theft statutes and penalty sections sufficiently address Unlicensed Contractor Fraud cases and require fewer elements to prove. In addition, the Department believes that a threshold of \$50,000 would uphold the very essence of the proposed bill by illustrating the seriousness and damaging effects that financial exploitation has on the elderly.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 432, H.D. 1. Thank you for the opportunity to testify on this matter.



ONLINE SUBMITTAL

Hearing on: Tuesday, February 28, 2017 @ 10:00 a.m.

Conference Room #329

DATE: February 24, 2017

TO: [COMMITTEE ON JUDICIARY](#)
Rep. Scott Y. Nishimoto, Chair
Rep. Joy A. San Buenaventura, Vice Chair

FROM: Eva Andrade, President

RE: **Strong Support for HB 432 HD1 Relating to the Elderly**

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening life, family and religious freedom in Hawaii. We are committed to defending the family, including the elderly population. This bill, if passed into law, will protect Hawaii's kupuna against financial exploitation by establishing a felony offense for the financial exploitation of an elder by a caregiver. We support protecting our aging kupuna from predators and abusers.

- In a study of 4,156 older adults, family members were the most common perpetrators of financial exploitation of older adults (FEOA) (57.9%), followed by friends and neighbors (16.9%), followed by home care aides (14.9%)ⁱ
- Financial exploitation causes large economic losses for businesses, families, elders, and government programs, and increases reliance on federal health care programs such as Medicaidⁱⁱ
- Those with cognitive incapacities suffer 100% greater economic losses than those without such incapacities.ⁱⁱⁱ
- Financial abuse by itself costs older Americans over \$2.6 billion dollars annually.^{iv}

Most advocates for the elderly will admit that financial exploitation is a fast-growing form of abuse of seniors and adults with disabilities. In some instances, the abuse may even turn deadly. Each of us must play a role in giving a voice to those who may be experiencing any form of abuse.

Mahalo for the opportunity to submit testimony.

ⁱ Peterson, J., Burnes, D., Caccamise, P., Mason, A., Henderson, C., Wells, M., & Lachs, M. (2014). Financial exploitation of older adults: a population-based prevalence study. *Journal of General Internal Medicine*, 29(12), 1615-23. doi: 10.1007/s11606-014-2946-2

ⁱⁱ U.S. Department of Justice, Department of Health and Human Services, Connolly, M.T., Brandl, B., & Breckman, R. (2014). *The Elder Justice Roadmap: A Stakeholder Initiative to Respond to an Emerging Health, Justice, Financial and Social Crisis*. Retrieved from [The Elder Justice Road Map \(PDF\)](#).

ⁱⁱⁱ Gunther, J. (2011). [The 2011 Utah Economic Cost of Elder Financial Exploitation](#).



hawaii family forum

^{iv} MetLife Mature Market Institute, The National Committee for the Prevention of Elder Abuse, The Center for Gerontology at Virginia Polytechnic Institute and State University. *Broken Trust: Elders, Family & Finances* [\(PDF\)](#).



ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII
DIOCESE OF HONOLULU
Witness to Jesus



DATE: February 24, 2017

[COMMITTEE ON JUDICIARY](#)

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

FROM: Walter Yoshimitsu, Executive Director – Hawaii Catholic Conference

POSITION: Strong Support for HB 432 HD1 Relating to the Elderly

The Hawaii Catholic Conference which is the public policy voice of the Roman Catholic Church in the State of Hawaii supports this bill that would protect our elderly kupuna from financial abuse. An estimated five million, or one in 10, seniors nationally are victims of elder abuse, neglect or financial exploitation, according to the U.S. Department of Health and Human Services Administration for Community Living.

At the heart of Catholic social justice principles is the dignity of the human person and the sanctity of life. Love of God and of neighbor must propel us to develop our awareness of this grave social ill and to take action within our communities to eliminate this scourge which manifests itself in many forms, e.g. neglect, abandonment, financial exploitation, sexual, physical and psychological abuse.

Every day, older adults and adults with disabilities suffer from abuse, neglect, and exploitation; often by people they trust the most. Abusers may be spouses, family members, personal acquaintances, professionals in positions of trust or opportunistic strangers who prey on the vulnerable.

Blessed John Paul II referred to the family as “the basic cell of society. The family should live in such a way that its members learn to care and take responsibility for the young, the old, the sick, the handicapped, and the poor. There are many families who are at times incapable of providing this help. It devolves then on other persons, other families, and, in a subsidiary way, society to provide for their needs...”¹

Elder abuse remains under-recognized, undetected and underreported with devastating and life-threatening consequences. It remains a complex issue and can be very difficult for people experiencing abuse within their homes to break the silence and speak about their situation.

Mahalo for the opportunity to testify.

¹ 2207-2209 Catechism of the Catholic Church

HAWAII CATHOLIC CONFERENCE

(The public policy voice for the Roman Catholic Church in the State of Hawaii)

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 24, 2017 7:28 PM
To: JUDtestimony
Cc: shyla.moon@ymail.com
Subject: Submitted testimony for HB432 on Feb 28, 2017 14:00PM

HB432

Submitted on: 2/24/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shyla Moon	Individual	Support	No

Comments: If this helps please pass this bill. I've been taking care of my elderly relatives for decades and thinking of how someone could intentionally take advantage of an elder just sickens me.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 1:29 PM
To: JUDtestimony
Cc: tampaltin@gmail.com
Subject: *Submitted testimony for HB432 on Feb 28, 2017 14:00PM*

HB432

Submitted on: 2/27/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tamara Paltin	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 2:59 PM
To: JUDtestimony
Cc: begoniabarry@gmail.com
Subject: *Submitted testimony for HB432 on Feb 28, 2017 14:00PM*

HB432

Submitted on: 2/27/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Support	No

Comments:

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To: Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair
Members of the Committee on Judiciary

LATE

From: Jamie Rodrigues

Hearing: Representative Committee On Judiciary
Tuesday, February 28, 2017 at 2:00 pm in Conference Room 325

Testimony in opposition of HB432 HD1, Relating To The Elderly

My name is Jamie Rodrigues and I oppose this measure. Defining the incident of financial exploitation on an elder as a criminal offense may force caregivers to think twice before committing the act, however, detailing the offense as a felony will not prevent these occurrences from happening. Elders in our community are entitled to feel and be protected from abuse in any form, however, overwhelming a penal system that is already inundated is not the answer. This measure will increase the non-violent criminal population and possibly increase the population of incarcerated individuals. Restorative justice may be a better method of implementing consequences on this particular offender population.

In California, financial exploitation is punishable by a fine of two thousand five hundred dollars (\$2,500) and imprisonment in a county jail for one year, or in the state prison for two, three, or four years, when the value exceeds nine hundred fifty dollars (\$950); and by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail for one year, when the property taken is of a value not exceeding nine hundred fifty dollars (\$950). (California Penal Code Section 368).

I am afraid these consequences do not suffice for the amount of pain and suffering that is brought upon the elder. Fines and punishment does not replenish the asset or money that has

been removed from the elder's care. Innovative measures of restorative justice may help Hawaii to prevent our already overcrowded jails from continuing to be inundated with non-violent offenders. I'm encouraging the State to find a better way to hold financial exploiters accountable that includes services to be rendered to those whom have been affected. I would like to encourage this committee to consider other options to holding people accountable for their crimes besides criminalizing citizens. Thank you for the opportunity to provide testimony in opposing HB 432. Once again, I urge your opposition of this bill. If you have any questions, please contact Jamie Rodrigues at 808-368-2462 or by email at Jamiear@hawaii.edu.