

**HB-490-HD-1**

Submitted on: 2/19/2021 4:53:16 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl B.	Individual	Support	No

Comments:

Support

As a senior living in downtown Honolulu, blocks from the Capitol, this is a welcome bill. Hopefully, this will mean that we will also see increased vigilance by law enforcement on our islands as well. Most of us who live here would benefit from greater visibility of HPD and less of males walking in groups, on bicycles and boards.

**HB-490-HD-1**

Submitted on: 2/20/2021 4:19:03 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Denise Boisvert	Individual	Support	No

Comments:

Dear Judiciary & Hawaiian Affairs Committee members,

I am writing in SUPPORT of the idea of HB490 HD1 regarding enhanced penalties that apply to crimes against seniors and that would lower the applicable age from 62 to 60, but question the effective date.

Unless I am misunderstanding the text, I am perplexed at why the Act, if passed, would become effective on July 1, 2060.

Will people who are between the ages of 60 and 62 be more fragile and vulnerable forty years from now?

Why wouldn't the State want to discourage perpetrators of elder abuse, etc. with more severe punishment for crimes against the 60 to 62 age group ASAP by having the Act become effective this year?

Thank you for your kind consideration.

Sincerely,

Denise Boisvert

Waikiki

**HB-490-HD-1**

Submitted on: 2/22/2021 11:13:42 AM

Testimony for JHA on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Maui Police Department	Support	No

Comments:

Mahalo for the opportunity to give my position. Support HB490.

**MICHAEL P. VICTORINO**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**MICHAEL S. KAGAMI**  
First Deputy Prosecuting Attorney

**ROBERT D. RIVERA**  
Second Deputy Prosecuting Attorney



**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
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TESTIMONY  
ON  
H.B. 490 SD1 RELATING TO  
CRIMES AGAINST SENIORS

February 22, 2021

The Honorable Mark M. Nakashima  
Chair  
The Honorable Scot Z. Matayoshi  
Vice Chair  
and Members of the Committee on Judiciary & Hawaiian Affairs

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning H.B. 490 SD1, Relating to Crimes Against Seniors. Specifically, we would like to express our strong support for H.B. 490 SD1. In our experience, many senior victims of crime never fully recover from the physical, financial, psychological and emotional devastation caused by violent crime, theft or financial exploitation. We helped draft this bill in order to strengthen and standardize the legal protection Hawai'i offers to our kupuna.

The bill accomplishes this goal in two ways. First, it creates stronger charging options for certain crimes of violence or financial exploitation when a senior is victimized and the offender knows or reasonably should know the senior's age. For example, conduct that would otherwise constitute Assault in the Second Degree can be charged as Assault in the First Degree if the offender knows or reasonably should know that the victim was sixty years of age or older.

Second, it lowers and standardizes the age threshold from sixty-two (62) to sixty (60) for these charging options. This increases the number of protected elders protected by our laws, while also creating a consistent statutory scheme for enforcement purposes.

We would also like to note that we have revised this bill from its earlier versions based on input from the community and from the Legislature. Most notably, the bill previously had a strict liability component regarding an offender's knowledge of an elderly victim's age. The current version removes that component and replaces it with a requirement that an offender knows or reasonably should know that a victim is sixty years old or older. We believe this amendment renders the bill more fair and equitable from a constitutional perspective, while still retaining the core goal of enhancing the legal protection offered to our kupuna by Hawai'i laws.

For these reasons, the Department of the Prosecuting Attorney, County of Maui strongly supports the passage of H.B. 490 SD1. Please feel free to contact our office at (808) 270-7777 if

you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

**HB-490-HD-1**

Submitted on: 2/22/2021 12:59:09 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Jones	Individual	Support	No

Comments:

**Testimony in Support of HB490/HD1 – Pushing Up the Effective Date to Jan. 1, 2022**

Aloha Chair Nakashima, Vice Chair Matayoshi, and Honorable House Committee Members:

I present this testimony in **support of HB 490/HD 1** which, among other things, lowers the age of enhanced penalties for crimes against Hawai`i's seniors from 65 to age 60. As pointed out in previous testimony from various law enforcement institutions including the Department of the Attorney General and Honolulu Police Department, Hawai`i's *kupuna* are all too often the targets of various property and, worse, financial crimes, which can cause seniors to lose property and/or savings that has taken a lifetime for them to earn.

I am puzzled, however, as to why the effective date of this proposed measure is extended until July 1, 2060 when it appears to me (AND my parents, who are in their late-80s) that in this time of budget shortfalls, it could cost little to have this law take effect as of January 1, 2022 and begin benefitting *kupuna* age 60 and above. Seniors CANNOT afford to wait for further protections for another almost-40 years! The worse the economic situation becomes – the more the elderly become targets for criminals and scammers.

In addition, the Office of the Public Defender noted in its testimony that “HRS § 706-660.2 requires a mandatory jail term for those who commit crimes against those sixty years of age or older for any felony charge which causes death, serious or substantial bodily injury. This current statute should serve as ample deterrence to the victimization of those who are sixty years of age or older.” However, this Statute HRS § 706-660.2 NEEDS to be amended to include: “**...or substantial bodily injury, or financial injury via official impersonation (i.e., criminals purporting to represent the government, utilities, banks, etc.), the internet, and/or other means**” against seniors above age 60 as an added disincentive to their victimization.

For all of the above reasons, I respectfully request that you also **support HB 490/HD 1 – with language changes and pass this out of your Committee.** Mahalo for this

opportunity to present testimony on this important legislation benefiting Hawai`i's *kupuna*.

Nancy Jones, PO Box 1462, Wai`anae, HI 96792

**HB-490-HD-1**

Submitted on: 2/22/2021 1:05:19 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Zeb Jones	Individual	Support	No

Comments:

**Testimony Supporting HB490/HD1 – With An Effective Date of Jan. 1, 2022**

Aloha Chair Nakashima, Vice Chair Matayoshi, and Honorable House Committee Members:

I submit this testimony in **support of HB 490/HD 1** which, among other things, lowers the age of enhanced penalties for crimes against Hawai'i's seniors from 65 to age 60. As noted in prior testimony from various law enforcement institutions including the Department of the Attorney General and Honolulu Police Department, Hawai'i's *kupuna* increasingly the targets for various property and, worse, financial crimes, which can cause seniors to lose property and/or savings that has taken a lifetime to earn.

I do NOT feel that the effective date of this proposed measure should be extended until July 1, 2060 when it appears to me that in this time of budget shortfalls it could cost little to have this law take effect as of January 1, 2022 and begin benefitting *kupuna* age 60 and above. Hawai'i's *kupuna* CANNOT afford to wait for further protections for another almost-40 years! As our economic situation worsens – more of our elderly become prime targets for criminals and scammers.

In previous testimony, the Office of the Public Defender noted that “HRS § 706-660.2 requires a mandatory jail term for those who commit crimes against those sixty years of age or older for any felony charge which causes death, serious or substantial bodily injury. This current statute should serve as ample deterrence to the victimization of those who are sixty years of age or older.” However, this Statute HRS § 706-660.2 NEEDS to be amended to include: “...**or substantial bodily injury, or financial injury via official impersonation (i.e., criminals purporting to represent the government, utilities, banks, etc.), the internet, and/or other means**” against seniors above age 60 as an added disincentive to their victimization.

For all of the above reasons, I respectfully urge you to **support HB 490/HD 1 – with language changes and pass this out of your Committee**. Mahalo for this opportunity to present testimony on this important legislation benefiting all of Hawai'i's *kupuna*.

Zeb Jones, PO Box 1462, Wai`anae, HI 96792





**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on  
Judiciary & Hawaiian Affairs**

February 23, 2021

H.B. No. 490 H.D.1: RELATING TO CRIMES AGAINST SENIORS

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender respectfully opposes, in part, and supports, in part, H.B. No. 490 H.D.1. This bill amends several current criminal statutes to create special treatment for cases that involve victims who are sixty (60) years old or older. The Office of the Public Defender has consistently opposed the creation of special victim classes that elevate criminal liability. In the past, the legislature has elevated those individuals that, due to their employment, are in positions that have required more protection, and recently elevated those seeking protection from domestic violence. These special classes were created to elevate what would otherwise be a misdemeanor to a class C felony. This bill does the same thing for those who are sixty years old or older, and also elevates what would be a class C felony assault into a Class B felony assault, misdemeanor assault into a Class C felony assault, misdemeanor/petty misdemeanor theft into a Class B felony theft, and misdemeanor theft into a Class C felony theft. Elevating all individuals who are sixty years of age or older into a special victim class is not necessary for the protection of the public.

What is problematic under this measure is when a defendant is the same age or older than the victim. Under this measure, an 80-year-old defendant who simply slaps a 60-year-old person and only causes the 60-year-old to experience “pain” (which is included in the definition of “bodily injury”), the 80-year-old defendant will be subjected to a class C felony instead of a misdemeanor offense.

The Office of the Public Defender does understand that protecting the senior members of our community is a necessity. However, the Hawai‘i Revised Statutes already addresses that need. HRS § 706-660.2 requires a mandatory jail term for those who commit crimes against those sixty years of age or older for any felony charge which causes death, serious or substantial bodily injury. This current statute should serve as ample deterrence to the victimization of those who are sixty years of age or older.

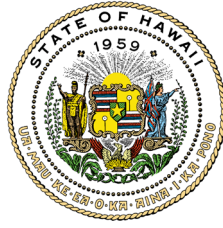
Although the Office of the Public Defender opposes providing special treatment to those over sixty years of age, we do support amending HRS § 708-812.55 to include the following language: “. . . ***and the age of the person lawfully present in the dwelling was known or reasonably should have been known to the person who unlawfully entered.]***” And if this legislature passes this measure as whole, we do support the language, “. . . ***and the age of the injured person is known or reasonably should be known to the person causing the injury***” be included in the amended assault statutes and similar language appearing in HRS §§708-831; 708-851; and 708-852.

Acknowledging that there are a good number of individuals sixty years of age or older who look and act much younger than their age in Hawai‘i for a variety of reasons, it is vital that the proposed statute continue to have a *mens rea*, or state of mind element, attached to the criminal conduct so that the dangerous and morally blameworthy parties are penalized, and not the individuals who unwittingly commit an offense that was not intended.

Thank you for the opportunity to comment on H.B. 490 S.D.1.

DAVID Y. IGE  
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH



CAROLINE CADIRAO  
DIRECTOR

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STATE OF HAWAII  
EXECUTIVE OFFICE ON AGING  
NO. 1 CAPITOL DISTRICT  
250 SOUTH HOTEL STREET, SUITE 406  
HONOLULU, HAWAII 96813-2831

**Testimony in SUPPORT of HB490 HD1  
Relating to Crimes Against Seniors**

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
REPRESENTATIVE MARK NAKASHIMA, CHAIR  
REPRESENTATIVE SCOT Z. MATAYOSHI, VICE CHAIR

Testimony of Caroline Cadirao  
Director, Executive Office on Aging  
Attached Agency to the Department of Health

Hearing Date: February 23, 2021  
2p.m.

Room Number: 325  
Via Video Conference

1 **EOA's Position:** The Executive Office on Aging (EOA), an attached agency of the Department  
2 of Health (DOH), is in strong support of House Bill 490 HD1, Relating to Crimes Against  
3 Seniors.

4 **Purpose and Justification:** The purpose of this bill is to amend HRS Chapter 707 (Offenses  
5 Against the Person) and Chapter 708 (Offenses Against Property Rights) by lowering the age at  
6 which certain penalties apply for crimes committed against seniors from sixty-two years of age  
7 to sixty years of age and making certain criminal offenses against seniors applicable if the  
8 perpetrator knows or reasonably should know the victim's age. Lowering the age to 60 years in  
9 these statutes will provide uniformity and assist with prosecution. In addition, this measure  
10 would add further protection to our most vulnerable adults. We appreciate this first step to  
11 address the age inconsistencies in HRS Chapter 707 and Chapter 708.

12 Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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STEVEN S. ALM  
PROSECUTING ATTORNEY



THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE MARK M. NAKASHIMA, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
**Thirty-First State Legislature**  
**Regular Session of 2021**  
**State of Hawai`i**

February 23, 2021

**RE: H.B. 490, H.D. 1; RELATING TO CRIMES AGAINST SENIORS.**

Chair Nakashima, Vice-Chair Matayoshi and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 490, H.D. 1.

The purpose of H.B. 490, H.D. 1, is twofold: 1) to provide additional mechanisms within the Hawai`i Revised Statutes to provide protection for elder persons who are the target of physical and financial harm; 2) to make uniformed the age in which an individual would be afforded additional protection. Specifically, the original bill sought to protect persons 60 years of age or older from certain crimes by making the criminal conduct against them specifically have more severe consequences.

The Department believes H.B. 490, H.D. 1, which addresses various forms of elder abuse is a substantial effort in protecting our kupuna. Currently, the Elder Abuse Unit at the Honolulu Prosecutor's Office is handling a trial load which includes 43 violent crimes (including 9 homicides), 76 property crimes and 27 financial crimes. These numbers are significantly higher than the month of January 2020, where criminal cases set for trial included only 34 violent crimes, 29 property crimes and 17 financial crimes. In addition, with this tragic increase of violent crimes against our elderly, we are now nearing the point at which elder abuse cases have increased to almost double the number of felony domestic violence cases currently being prosecuted.

Through a series of amendments to existing statutes, H.B. 490, H.D. 1, will, in short, modify the law in the following manner: 1) if a person assaults a senior causing them physical pain, that crime could be charged as a class C felony instead of being treated as a misdemeanor offense (current law requires more serious injuries, like broken bones, in order for these crimes to be treated more seriously) - this effectively makes Assault in the Third Degree (§707-712, H.R.S.) and Abuse of Family and Household Member (§709-906, H.R.S. - for parent abuse situations) into Assault in the Second Degree (§707-711, H.R.S.) offenses; 2) if a person steals over \$250 from a senior

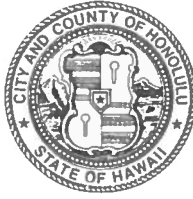
(current law says over \$750), that crime could now be charged as a class C felony offense of Theft in the Second Degree (§708-831, H.R.S.) as oppose to a misdemeanor offense of Theft in the Third Degree (§708-832, H.R.S.); and 3) if a person forges a senior's name on a document or tries to cash a stolen check belonging to them, that matter is now a more serious felony offense.

Additionally, H.B. 490, H.D. 1, standardizes the definition of who would be considered a senior or elderly under the criminal statutes. Currently, an elder is defined differently throughout the Hawaii Revised Statutes. While most criminal statutes place the age of a senior at 60, there are instances where the ages of 62 and 65 are mentioned as well in the law. The Department believes that the age of 60 across the different applicable statutes would be an appropriate age and will remove unnecessary confusion during the charging and prosecuting elder abuse cases.

The Department believes that the amendments in H.B. 490, H.D. 1, will serve as a strong deterrent for individuals who are targeting seniors and further illustrate that our State will not stand by and leave our kupuna defenseless. 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. 490, H.D. 1. Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI  
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SUSAN BALLARD  
CHIEF

JOHN D. MCCARTHY  
AARON TAKASAKI-YOUNG  
DEPUTY CHIEFS

OUR REFERENCE MK-KK

February 23, 2021

The Honorable Mark M. Nakashima, Chair  
and Members  
Committee on Judiciary  
and Hawaiian Affairs  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 490, H.D. 1, Relating to Crimes Against Seniors

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

The HPD supports House Bill No. 490, H.D. 1, Relating to Crimes Against Seniors.

This bill appropriately eliminates the confusion and standardizes the age of seniors to 60 years of age or older. It also adds to the applicable sections of the Hawaii Revised Statutes that the perpetrators will be held accountable for their actions if they had knowledge of or reasonably should have known the age of their victims. The HPD supports making the commission of certain criminal offenses against a senior's person or property a crime.

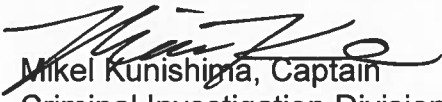
Victimization of seniors is an important subset of crime, and this vulnerable age group is targeted due to their advanced age, health factors, and decreased likelihood of reporting the crime. Our kupuna should be cherished and treated with respect.

The HPD urges you to support House Bill No. 490, H.D. 1, Relating to Crimes Against Seniors.

The Honorable Mark M. Nakashima, Chair  
and Members  
Page 2  
February 23, 2021

Thank you for the opportunity to testify.

Sincerely,

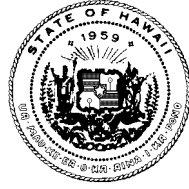
  
Mikel Kunishima, Captain  
Criminal Investigation Division

APPROVED:

  
Susan Ballard  
Chief of Police



DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 23, 2021

TO: The Honorable Representative Mark M. Nakashima, Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB0490 HD1– RELATING TO CRIMES AGAINST SENIORS.**

Hearing: February 23, 2021, 2:00 p.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of the bill as this change will further protect the health, safety and well-being of vulnerable adults and seniors in the community as a deterrent for individuals who continue to victimize our kupuna.

The Committee on Health, Human Services, and Homelessness amended the measure by:

- (1) Adding a savings clause;
- (2) Changing the effective date to July 1, 2060, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

**PURPOSE:** The purpose of the bill is to lower 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.

Thank you for the opportunity to provide testimony on this bill.