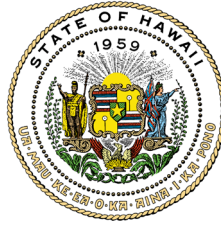


DAVID Y. IGE
GOVERNOR OF HAWAII

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



CAROLINE CADIRAO
DIRECTOR

Telephone
(808) 586-0100

Fax
(808) 586-0185

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 HB 490
Relating to Crimes Against Seniors**

COMMITTEE ON HEALTH, HUMAN SERVICES AND HOMELESSNESS
REPRESENTATIVE RYAN YAMANE, CHAIR
REPRESENTATIVE ADRIAN TAM, VICE CHAIR

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

Hearing Date: February 11, 2021
9:30 a.m.

Room Number: 329
Via Videoconference

- 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 HB490, Relating to Crimes Against Seniors.
- 3 **Purpose and Justification:** The purpose of this bill is to amend HRS Chapter 707-710 by
- 4 lowering the age of crimes against seniors to age 60 years of age and making certain criminal
- 5 offenses against seniors applicable when the perpetrator intentionally or reasonably knows the
- 6 victim's age. Lowering the age to 60 years will provide uniformity in our state statutes and assist
- 7 with prosecution. In addition, this measure would add further protection to our most vulnerable
- 8 adults. We appreciate this first step to address the age inconsistencies in the statutes.
- 9 Thank you for the opportunity to testify.

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 9, 2021

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Health, Human Services, & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **HB 490 – RELATING TO CRIMES AGAINST SENIORS**

Hearing: Thursday, February 11, 2021, 9:30 a.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.

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.

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
Health, Human Services & Homelessness**

February 11, 2021

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

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Office of the Public Defender respectfully opposes, in part, and supports, in part, H.B. No. 490. 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. 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.

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.

HB-490

Submitted on: 2/10/2021 7:07:31 PM

Testimony for HHH on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
HMS APCSB Daisy Hartsfield	DHS	Support	No

Comments:

Will stand on written testimony and be available for any questions (assuming I get in virtual hearing room).

HB-490

Submitted on: 2/11/2021 7:16:39 AM

Testimony for HHH on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Amador	DHS APCS	Support	No

Comments:

DHS stands on our written testimony

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY



THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS
Thirty-First State Legislature
Regular Session of 2021
State of Hawai'i

February 11, 2021

RE: H.B. 490; RELATING TO CRIMES AGAINST SENIORS.

Chair Yamane, Vice Chair Tam, and members of the House Committee on Health, Human Services, and Homelessness, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 490.

The purpose of H.B. 490, 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, 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, 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, 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. **Lastly, the Department would suggest a savings clause be inserted.**

The Department believes that the amendments in H.B. 490, 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. Thank you for the opportunity to testify on this matter.

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

**THE HONORABLE RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND
HOMELESSNESS
THIRTY-FIRST STATE LEGISLATURE
Regular Session of 2021
State of Hawai'i**

February 11, 2021

RE: H.B. 490 RELATING TO CRIMES AGAINST SENIORS

Chair Yamane, Vice Chair Tam, and Members of the House Committee on Health, Human Services, and Homelessness:

The Office of the Prosecuting Attorney, County of Kaua'i SUPPORTS H.B. 490.

The purpose of this Bill is to provide enhanced tools to law enforcement for the protection of our kupuna.

This Bill recognizes that current statutes do not provide adequate protection against the physical, emotional, and financial exploitation of our kupuna. It proposes an array of technical and substantive amendments to the provisions of Chapters 707 and 708 of the Hawaii Revised Statutes so that the laws will more closely align with common elder abuse scenarios and allow law enforcement and prosecutors to respond appropriately to those scenarios.

Accordingly, the Office of the Prosecuting Attorney, County of Kaua'i, requests that this measure be PASSED.

Thank you very much for the opportunity to testify.



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

February 9, 2021



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

The Honorable Troy N. Hashimoto, District 8
House of Representatives
31st Hawaii State Legislature
Hawaii State Capitol, Room 332
415 South Beretania Street
Honolulu, HI 96813

RE: HOUSE BILL 490 RELATING TO CRIMES AGAINST SENIORS

Dear Representative Hashimoto:

The Maui Police Department strongly SUPPORTS the passage of HB 490.

This bill will standardize what age is considered a crime against seniors relevant to the most common and egregious crimes committed against this age group. Making it a felony across the board will give another layer of protection as incentive for predators to think twice about the crime.

This age group is often the most vulnerable and will likely not report offenders that are caregivers and/or family members for fear of retribution or not being cared for. With the increase in seniors being victimized by scams, they may be embarrassed to come forward to admit they were fooled. With partner agencies and resources empowered by this bill and looking out for the welfare of our seniors and reporting these crimes, this will give victims a voice through the system.

Accordingly, the Maui Police Department requests that HB 490 be PASSED.

Thank you very much for the opportunity to testify.

Sincerely,

TIVOLI S. FAAUMU
Chief of Police

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Acting Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY
ON
H.B. 490 RELATING TO
CRIMES AGAINST SENIORS

February 9, 2021

The Honorable Ryan I. Yamane
Chair

The Honorable Adrian K. Tam
Vice Chair

and Members of the Committee on Health, Human Services, & Homelessness

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning H.B. 490, Relating to Crimes Against Seniors. Specifically, we would like to express our strong support for H.B. 490. 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

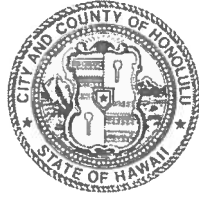
renders the bill more fair and equitable from a constitutional perspective, while still retaining the core goal of enhancing the legal protection offered to our kupuna by Hawai'i laws.

For these reasons, the Department of the Prosecuting Attorney, County of Maui supports the passage of H.B. 490. 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.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



RICK BLANGIARDI
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE MK-KK

February 11, 2021

The Honorable Ryan I. Yamane, Chair
and Members
Committee on Health, Human Services,
and Homelessness
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

SUBJECT: House Bill No. 490, 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, 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.

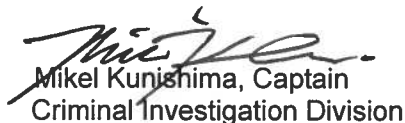
The HPD urges you to support House Bill No. 490, Relating to Crimes Against Seniors.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Susan Ballard
Chief of Police


Mikel Kunishima, Captain
Criminal Investigation Division

HB-490

Submitted on: 2/11/2021 4:47:55 AM

Testimony for HHH on 2/11/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Gilmeister	Macha	Support	No

Comments:

Macha is a member organization representing financial institutions in Hawaii, WI, IL and Maryland. We are participating on Maui Elder Justice Committee and provide training on Financial Elder Exploitation. We are very supportive of this bill as with early retirements and families moving back home due to financial constraints we support changing the age to 60 years. The state of WI is also proposing this age change as well. Mahalo

Mary Gilmeister

President and CEO