
A BILL FOR AN ACT

RELATING TO THE ELDERLY.

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

PART I

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding four new sections to part IV to be appropriately designated and to read as follows:

"§708- Financial exploitation of an elder in the first degree. (1) A person commits the offense of financial exploitation of an elder in the first degree if the person commits theft of property, the value of which exceeds \$10,000, of an elder, and knows that the owner of the property is an elder, or recklessly disregards the risk that the owner of the property is an elder.

(2) Financial exploitation of an elder in the first degree is a class A felony.

§708- Financial exploitation of an elder in the second degree. (1) A person commits the offense of financial exploitation of an elder in the second degree if the person commits theft of property, the value of which exceeds \$5,000, of an elder, and knows that the owner of the property is an elder,



1 or recklessly disregards the risk that the owner of the property
2 is an elder.

3 (2) Financial exploitation of an elder in the second
4 degree is a class B felony.

5 §708- Financial exploitation of an elder in the third
6 degree. (1) A person commits the offense of financial
7 exploitation of an elder in the third degree if the person
8 commits theft of property, the value of which exceeds \$100, of
9 an elder, and knows that the owner of the property is an elder,
10 or recklessly disregards the risk that the owner of the property
11 is an elder.

12 (2) Financial exploitation of an elder in the third degree
13 is a class C felony.

14 §708- Financial exploitation of an elder in the fourth
15 degree. (1) A person commits the offense of financial
16 exploitation of an elder in the fourth degree if the person
17 commits theft of property, the value of which is not in excess
18 of \$100, of an elder, and knows that the owner of the property
19 is an elder, or recklessly disregards the risk that the owner of
20 the property is an elder.

21 (2) Financial exploitation of an elder in the fourth
22 degree is a misdemeanor."



SECTION 2. Section 708-800, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Elder" means any person who is sixty years of age or older."

PART II

SECTION 3. Section 412:3-114.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§412:3-114.5[+] Mandatory reporting of suspected financial abuse of an elder. (a) A financial institution shall report suspected financial abuse that is directed towards, targets, or is committed against an elder to the ~~[department of human services]~~ appropriate local law enforcement agency if:

(1) In connection with providing financial services to the elder, the officer or employee of a financial institution:

(A) Has direct contact with the elder; or

(B) Reviews or approves the elder's financial documents, records, or transactions; and

(2) The officer or employee, within the scope of employment or professional practice:



1 (A) Observes or has knowledge of an incident the
2 officer or employee believes in good faith
3 appears to be financial abuse; or

4 (B) In the case of officers or employers who do not
5 have direct contact with the elder, has a good
6 faith suspicion that financial abuse has occurred
7 or may be occurring, based solely on the
8 information present at the time of reviewing or
9 approving the document, record, or transaction.

10 (b) Suspected financial abuse shall be reported
11 ~~[immediately]~~ to the ~~[department]~~ appropriate local law
12 enforcement agency immediately by telephone and followed by a
13 written report sent [within five business days.] via electronic
14 mail immediately thereafter or as soon as practicable.

15 ~~[(c) Upon notification by a financial institution of~~
16 ~~suspected financial abuse, the department, in a timely manner,~~
17 ~~shall determine whether the department has jurisdiction over the~~
18 ~~elder involved; and if not, shall notify the financial~~
19 ~~institution, which shall then notify the proper local law~~
20 ~~enforcement agency immediately by telephone and forward the~~
21 ~~written report to the agency within three business days. A~~
22 ~~financial institution shall not be liable for failing to report~~



1 ~~suspected financial abuse to a local law enforcement agency in~~
2 ~~eases in which the department fails to notify the institution of~~
3 ~~the department's lack of jurisdiction.~~

4 ~~(d)]~~ (c) Notwithstanding any other state law to the
5 contrary, including but not limited to laws concerning
6 confidentiality, any person, including the financial
7 institution, who:

8 (1) Participates in the making of a report pursuant to
9 this section; and

10 (2) Believes, in good faith, that the action is warranted
11 by facts known to that person,

12 shall have immunity from any liability, civil or criminal, that
13 might be otherwise incurred or imposed by or as a result of the
14 making of the report. Any person making the report shall have
15 the same immunity with respect to participation in any judicial
16 proceeding resulting from the report.

17 ~~[(e)]~~ (d) For the purposes of this section:

18 ~~["Department" means the department of human services.]~~

19 "Elder" means a person who is ~~[sixty-two]~~ sixty years of
20 age or older.

21 "Financial abuse" means financial abuse or economic
22 exploitation."



PART III

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.



Report Title:

Financial Exploitation of Elder

Description:

Creates the crime of financial exploitation of an elder.
Requires financial institutions to report suspected financial
abuse to the appropriate local law enforcement agency. (SD2)

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

