



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 30, 2012

MEMORANDUM

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2190 - RELATING TO MANDATORY REPORTING**

Hearing: Monday, January 30, 2012; 8:45 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B. 2190 is to require financial institutions that suspect financial abuse of an elder to report the abuse to local law enforcement and to the Department of Human Services (DHS). The bill also requires the sharing of records between DHS and local law enforcement.

DEPARTMENT'S POSITION: DHS supports the intent of this bill, but respectfully requests that the Legislature consider the Administration-sponsored bill, H.B. 2545, Relating to Financial Abuse of Elders, in lieu of H.B. 2190. DHS strongly supports H.B. 2545 which amends section 412:3 – 114.5, Hawaii Revised Statutes, by requiring financial institutions suspecting financial abuse of an elder to report directly to the appropriate police department instead of DHS.

DHS does not have the legal authority to directly seek judicial authorization to seize documents, freeze accounts or take other measures to immediately secure financial assets that may be at risk. Additionally, the DHS is without trained staff who

have the expertise to review the complex financial records and transactions for the financial abuse cases identified by financial institutions.

Finally, the DHS does not conduct criminal investigations, nor does it prosecute crimes. The appropriate entity to receive reports of suspected financial abuse from financial institutions is the local police department which has investigators and legal remedies at its disposal to immediately stop access to a “vulnerable elder’s” financial accounts when warranted.

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

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

KEALI'I S. LOPEZ
DIRECTOR



IRIS IKEDA CATALANI
COMMISSIONER

LYNNE HIMEDA
DEPUTY COMMISSIONER

STATE OF HAWAII
DIVISION OF FINANCIAL INSTITUTIONS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 221, HONOLULU, HAWAII 96813
P.O. BOX 2054, HONOLULU, HAWAII 96805

Phone: (808) 586-2820
Fax: (808) 586-2618
E-Mail: dfi@dcca.hawaii.gov

TO THE
HOUSE COMMITTEE ON HUMAN SERVICES

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Monday, January 30, 2012
8:30 a.m.

TESTIMONY ON H.B. NO. 2190
RELATING TO MANDATORY REPORTING

THE HONORABLE JOHN M. MIZUNO, CHAIR
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda Catalani, Commissioner of Financial Institutions ("Commissioner"). I am testifying on behalf of the Department of Commerce and Consumer affairs in support of House Bill No. 2190.

This bill requires financial institutions to report suspected financial abuse of elder adults to the Department of Human Services and to the appropriate local law enforcement agency. It grants immunity to the financial institution or persons reporting such abuse from any liability, civil or criminal, that might be imposed as a result of making these reports.

While the Department supports the requirement that both the Department of Human Services and law enforcement agencies be informed of financial elder abuse, it believes that the reporting function proposed is burdensome for financial institutions.

We suggest the following amendments in Section 1, page 1, (b):

- One report filed electronically with both the Department of Human Services and county police departments. We believe it is more efficient for all parties to receive one report filed electronically. We would be available to work with the Department of Human Services and the county police departments to create a reporting form that meets the needs of all parties (including the financial institutions).
- We also note that the term “proper local law enforcement agency” may be vague and suggest that the term “appropriate county police departments” be used to provide clarity for the financial institutions.

We suggest the following amendments in Section 1, page 2, (c):

- We suggest one electronic contact by the Department of Human Services to the financial institution and the county police department instead of by telephone and then by electronic mail.

We suggest the following amendments in Section 1, page 3, (d):

- We are unsure if the financial institutions have any responsibility in this new section. If the financial institutions do not play a role in this exchange of information between the Department of Human Services and the county

police departments, then we suggest this section be removed from the banking law.

For these reasons, the Division supports with amendments, House Bill No. 2190.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may.

Presentation of the Committees on Judiciary and Labor
Monday, January 30, 2012 at 8:30 a.m.
Testimony on HB 2190 Relating to Mandatory Reporting

In Support

TO: Honorable John M. Mizuno, Chair
Honorable Jo Jordan, Vice Chair
Members of the Committee

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying in support of HB 2190. HBA is the trade organization that represents all FDIC insured depository institutions doing business in Hawaii.

This bill requires suspected financial abuse of an elder to be reported to local law enforcement and Department of Human Services (DHS). It also mandates sharing of records between DHS and local law enforcement.

HBA supports this bill and HB 2192. We have a few recommendations to streamline the reporting process as follows:

1. The term "proper local law enforcement agency" should be expanded to include federal law enforcement agencies. Sometimes, if the incident involves a large crime, a federal agency (FBI, U.S. Secret Service, or the U.S. Postal Inspectors) will get involved.
2. The State Agency that receives the report should be consistent between this bill and HB 2192. It should either be DHS or Adult Protection Service (APS). I believe the current practice is to send to APS.
3. The bill should allow financial institutions (FI) the option to **notify and report** using electronic mail or notify by phone with an email filing of the report, as determined by the FI.
4. A **standardized reporting form** should be developed and adopted by DHS/APS and the county police departments in Hawaii.

5. If possible, an email and telephone reporting contact list should be compiled and maintained.

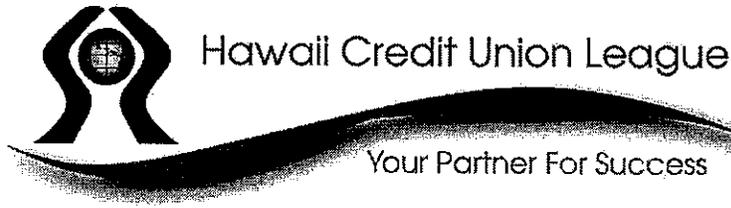
Currently, it is not unusual for an FI employee to be kept waiting on the telephone line after calling 911 and then waiting for an officer to arrive to take a report. The current process takes away valuable time from an already overly burdened county police departments.

These recommended changes will help ensure a streamlined and uniform reporting process instead of the current practice of using different reporting forms and methods (telephone call, fax, email, etc.), which wastes value time.

Thank you for this opportunity to testify.

A handwritten signature in black ink, appearing to read 'Gary Y. Fujitani', followed by a horizontal line.

Gary Y. Fujitani
Executive Director



1654 South King Street
Honolulu, Hawaii 96826-2097
Telephone: (808) 941.0556
Fax: (808) 945.0019
Web site: www.hcul.org
Email: info@hcul.org



Testimony to the House Committee on Human Services
Monday, January 30, 2012 at 8:30 a.m.

Testimony in support of HB 2190, Relating to Mandatory Reporting

To: The Honorable John Mizuno, Chair
The Honorable Jo Jordan, Vice-Chair
Members of the Committee on Human Services

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 83 Hawaii credit unions, representing approximately 811,000 credit union members across the state.

We are in support of HB 2190, which would require that financial institutions report instances of suspected financial abuse of an elder to the Department of Human Services (DHS) and law enforcement. By being able to report such crimes directly to both DHS and the police department, valuable time could be saved. In many situations where an elderly person's financial information and/or accounts are being threatened, credit unions have been able to circumvent the loss of funds simply by raising concerns to law enforcement. By placing local law enforcement in the "front lines", an important layer of security is added, which could make the difference between losing money to fraud and being able to prevent it.

We do suggest two small amendments be made to improve this bill. We suggest that it be made clear which law enforcement agency be designated to contact – in cases of financial crime, this could be either the county police department, or the Federal Bureau of Investigation (FBI). Further, we suggest that electronic mail (e-mail) be specified as the primary method of communication. This would help to expedite the process.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON HUMAN SERVICES
Rep. John Mizuno, Chair

Conference Room 329
January 30, 2012 at 8:30 a.m.

Supporting HB 2190 Relating to Mandatory Reporting

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of HB 2190, which requires financial institutions to report suspected cases of financial abuse of elderly persons.

This bill is one of many that are designed to reduce elder abuse or to strengthen the infrastructure that cares for the elderly.

As elders become more physically frail, they are less able to stand up to bullying and/or to fight back if attacked. They may not see or hear as well or think as clearly as they used to, leaving openings for unscrupulous people to take advantage of them.

Elder abuse can take the form of physical abuse, emotional abuse, sexual abuse, neglect, abandonment, and financial exploitation. When abuse occurs, the State's Adult Protective Services program, as well as other relevant agencies, investigate reports of abuse and take corrective action.

An infrastructure has been created to prevent elder abuse and to address it when it happens. Some of its components include the following: (1) Respite care to provide relief for caregivers; (2) Public awareness campaigns; (3) Chore services to support the frail elderly; (4) Special provisions to encourage the reporting of abuse by certain professionals and institutions, including banks; (5) Ensuring sufficient funding for Adult Protective Services; and (6) Making fiduciaries, persons with power of attorney, and guardians more accountable for their actions. This infrastructure should be strengthened.

HAH supports a broad range of legislative measures designed to prevent elder abuse and to address it when it occurs. As such, we support HB 2190.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Sunday, January 29, 2012 7:35 PM
To: HUS testimony
Cc: Brenda.Kosky@gmail.com
Subject: Testimony for HB2190 on 1/30/2012 8:30:00 AM

Testimony for HUS 1/30/2012 8:30:00 AM HB2190

Conference room: 329
Testifier position: Support
Testifier will be present: No
Submitted by: Brenda Kosky
Organization: Consumer Family & Youth Alliance
E-mail: Brenda.Kosky@gmail.com
Submitted on: 1/29/2012

Comments:

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Sunday, January 29, 2012 10:55 AM
To: HUS testimony
Cc: robertscottwall@yahoo.com
Subject: Testimony for HB2190 on 1/30/2012 8:30:00 AM

Testimony for HUS 1/30/2012 8:30:00 AM HB2190

Conference room: 329
Testifier position: Support
Testifier will be present: Yes
Submitted by: Scott Wall
Organization: Individual
E-mail: robertscottwall@yahoo.com
Submitted on: 1/29/2012

Comments:

As twenty million baby boomers age and risk becoming Alzheimer's they will become peers of the Consumer, Family, & Youth Alliance and we feel that they deserve every care and protection that we get. That also includes protection from fraud. I believe that this bill will go a long way towards achieving that protection.