

JAN 18 2024

A BILL FOR AN ACT

RELATING TO CRIMES AGAINST ELDERS.

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

1 SECTION 1. Section 707-710, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§707-710 **Assault in the first degree.** (1) A person
4 commits the offense of assault in the first degree if the person
5 intentionally or knowingly causes:

6 (a) Serious bodily injury to another person; or

7 (b) Substantial bodily injury to a person who is sixty
8 years of age or older [~~and the age of the injured~~
9 ~~person is known or reasonably should be known to the~~
10 ~~person causing the injury~~].

11 (2) The requisite state of mind for subsection (1)(b) of
12 this offense is not applicable to the fact that the person who
13 sustained substantial bodily injury was sixty years of age or
14 older. A person is strictly liable with respect to the
15 attendant circumstance that the person who sustained substantial
16 bodily injury was sixty years of age or older.



1 [~~2~~] (3) Assault in the first degree is a class B
2 felony."

3 SECTION 2. Section 707-711, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§707-711 **Assault in the second degree.** (1) A person
6 commits the offense of assault in the second degree if the
7 person:

- 8 (a) Intentionally, knowingly, or recklessly causes
9 substantial bodily injury to another;
- 10 (b) Recklessly causes serious bodily injury to another;
- 11 (c) Intentionally or knowingly causes bodily injury to a
12 correctional worker, as defined in section
13 710-1031(2), who is engaged in the performance of duty
14 or who is within a correctional facility;
- 15 (d) Intentionally or knowingly causes bodily injury to
16 another with a dangerous instrument;
- 17 (e) Intentionally or knowingly causes bodily injury to an
18 educational worker who is engaged in the performance
19 of duty or who is within an educational facility. For
20 the purposes of this paragraph, "educational worker"
21 means any administrator, specialist, counselor,



1 teacher, or employee of the department of education or
2 an employee of a charter school; a person who is a
3 volunteer, as defined in section 90-1, in a school
4 program, activity, or function that is established,
5 sanctioned, or approved by the department of
6 education; or a person hired by the department of
7 education on a contractual basis and engaged in
8 carrying out an educational function;

9 (f) Intentionally or knowingly causes bodily injury to any
10 emergency medical services provider who is engaged in
11 the performance of duty. For the purposes of this
12 paragraph, "emergency medical services provider" means
13 emergency medical services personnel, as defined in
14 section 321-222, and physicians, physician's
15 assistants, nurses, nurse practitioners, certified
16 registered nurse anesthetists, respiratory therapists,
17 laboratory technicians, radiology technicians, and
18 social workers, providing services in the emergency
19 room of a hospital;

20 (g) Intentionally or knowingly causes bodily injury to a
21 person employed at a state-operated or -contracted



1 mental health facility. For the purposes of this
2 paragraph, "a person employed at a state-operated
3 or -contracted mental health facility" includes health
4 care professionals as defined in section 451D-2,
5 administrators, orderlies, security personnel,
6 volunteers, and any other person who is engaged in the
7 performance of a duty at a state-operated
8 or -contracted mental health facility;

9 (h) Intentionally or knowingly causes bodily injury to a
10 person who:

11 (i) The defendant has been restrained from, by order
12 of any court, including an ex parte order,
13 contacting, threatening, or physically abusing
14 pursuant to chapter 586; or

15 (ii) Is being protected by a police officer ordering
16 the defendant to leave the premises of that
17 protected person pursuant to section 709-906(4),
18 during the effective period of that order;

19 (i) Intentionally or knowingly causes bodily injury to any
20 firefighter or water safety officer who is engaged in
21 the performance of duty. For the purposes of this



1 paragraph, "firefighter" has the same meaning as in
2 section 710-1012 and "water safety officer" means any
3 public servant employed by the United States, the
4 State, or any county as a lifeguard or person
5 authorized to conduct water rescue or ocean safety
6 functions;

7 (j) Intentionally or knowingly causes bodily injury to a
8 person who is engaged in the performance of duty at a
9 health care facility as defined in section 323D-2.

10 For purposes of this paragraph, "a person who is
11 engaged in the performance of duty at a health care
12 facility" includes health care professionals as
13 defined in section 451D-2, physician assistants,
14 surgical assistants, advanced practice registered
15 nurses, nurse aides, respiratory therapists,
16 laboratory technicians, and radiology technicians;

17 (k) Intentionally or knowingly causes bodily injury to a
18 person who is engaged in providing home health care
19 services, as defined in section 431:10H-201;

20 (l) Intentionally or knowingly causes bodily injury to a
21 person, employed or contracted to work by a mutual



1 benefit society, as defined in section 432:1-104, to
2 provide case management services to an individual in a
3 hospital, health care provider's office, or home,
4 while that person is engaged in the performance of
5 those services;

6 (m) Intentionally or knowingly causes bodily injury to a
7 person who is sixty years of age or older [~~and the age~~
8 ~~of the injured person is known or reasonably should be~~
9 ~~known to the person causing the injury~~]; or

10 (n) Intentionally or knowingly causes bodily injury to a
11 sports official who is engaged in the lawful discharge
12 of the sports official's duties. For the purposes of
13 this paragraph, "sports official" and "lawful
14 discharge of the sports official's duties" have the
15 same meaning as in section 706-605.6.

16 (2) The requisite state of mind for subsection (1)(m) of
17 this offense is not applicable to the fact that the person who
18 sustained bodily injury was sixty years of age or older. A
19 person is strictly liable with respect to the attendant
20 circumstance that the person who sustained bodily injury was
21 sixty years of age or older.



1 [~~(2)~~] (3) Assault in the second degree is a class C
2 felony."

3 SECTION 3. Section 708-812.55, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§708-812.55 Unauthorized entry in a dwelling in the first
6 degree. (1) A person commits the offense of unauthorized entry
7 in a dwelling in the first degree if the person intentionally or
8 knowingly enters unlawfully into a dwelling and another person
9 was, at the time of the entry, lawfully present in the dwelling
10 who:

11 (a) Was sixty years of age or older [~~and the age of the~~
12 ~~person lawfully present in the dwelling was known or~~
13 ~~reasonably should have been known to the person who~~
14 ~~unlawfully entered];~~

15 (b) Was an incapacitated person; or

16 (c) Had a developmental disability.

17 (2) For the purposes of this section:

18 "Developmental disability" shall have the same meaning as
19 in section 333E-2.

20 "Incapacitated person" shall have the same meaning as in
21 section 560:5-102.



1 (3) Unauthorized entry in a dwelling in the first degree
2 is a class B felony.

3 (4) It shall be an affirmative defense that reduces this
4 offense to a misdemeanor that, at the time of the unlawful
5 entry:

6 (a) There was a social gathering of invited guests at the
7 dwelling the defendant entered;

8 (b) The defendant intended to join the social gathering as
9 an invited guest; and

10 (c) The defendant had no intent to commit any unlawful act
11 other than the entry.

12 (5) The requisite state of mind for subsection (1)(a) of
13 this offense is not applicable to the fact that the person
14 lawfully present in the dwelling at the time of the entry was
15 sixty years of age or older. A person is strictly liable with
16 respect to the attendant circumstance that the person lawfully
17 present in the dwelling at the time of the entry was sixty years
18 of age or older."

19 SECTION 4. Section 708-830.5, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§708-830.5 Theft in the first degree. (1) A person
2 commits the offense of theft in the first degree if the person
3 commits theft of:

4 (a) Property or services, the value of which exceeds
5 \$20,000;

6 (b) A firearm;

7 (c) Dynamite or other explosive;

8 (d) Property or services during an emergency period
9 proclaimed by the governor or mayor pursuant to
10 chapter 127A, within the area covered by the emergency
11 or disaster under chapter 127A, the value of which
12 exceeds \$300;

13 (e) Property from the person of another who is sixty years
14 of age or older [~~and the age of the property owner is~~
15 ~~known or reasonably should be known to the person who~~
16 ~~commits theft~~];

17 (f) Property or services, the value of which exceeds \$750,
18 from a person who is sixty years of age or older [~~and~~
19 ~~the age of the property owner is known or reasonably~~
20 ~~should be known to the person who commits theft~~]; or



1 (g) A motor vehicle or motorcycle as defined in section
2 291C-1.

3 (2) The requisite state of mind for subsections (1)(e) and
4 (1)(f) of this offense is not applicable to the fact that the
5 owner of the property, provider of the services, or the
6 individual from whose person the property was taken was sixty
7 years of age or older. A person is strictly liable with respect
8 to the attendant circumstance that the owner of the property,
9 provider of the services, or the individual from whose person
10 the property was taken was sixty years of age or older.

11 [~~2~~] (3) Theft in the first degree is a class B felony."

12 SECTION 5. Section 708-831, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§708-831 Theft in the second degree. (1) A person
15 commits the offense of theft in the second degree if the person
16 commits theft of:

- 17 (a) Property from the person of another;
- 18 (b) Property or services the value of which exceeds \$750;
- 19 (c) An aquacultural product or part thereof from premises
20 that are fenced or enclosed in a manner designed to
21 exclude intruders or there is prominently displayed on



1 the premises a sign or signs sufficient to give notice
2 and reading as follows: "Private Property", "No
3 Trespassing", or a substantially similar message;
4 (d) Agricultural equipment, supplies, or products, or part
5 thereof, the value of which exceeds \$100 but does not
6 exceed \$20,000, or of agricultural products that
7 exceed twenty-five pounds, from premises that are
8 fenced, enclosed, or secured in a manner designed to
9 exclude intruders or where there is prominently
10 displayed on the premises a sign or signs sufficient
11 to give notice and reading as follows: "Private
12 Property", "No Trespassing", or a substantially
13 similar message; or if at the point of entry of the
14 premises, a crop is visible. The sign or signs,
15 containing letters no less than two inches in height,
16 shall be placed along the boundary line of the land in
17 a manner and in such a position as to be clearly
18 noticeable from outside the boundary line. Possession
19 of agricultural products without ownership and
20 movement certificates, when a certificate is required



1 pursuant to chapter 145, is prima facie evidence that
2 the products are or have been stolen;

3 (e) Agricultural commodities that are generally known to
4 be marketed for commercial purposes. Possession of
5 agricultural commodities without ownership and
6 movement certificates, when a certificate is required
7 pursuant to section 145-22, is prima facie evidence
8 that the products are or have been stolen; provided
9 that "agricultural commodities" has the same meaning
10 as in section 145-21;

11 (f) Property commonly used to store items of monetary
12 value, including but not limited to any purse,
13 handbag, or wallet;

14 (g) Property or services, the value of which exceeds \$250,
15 from a person who is sixty years of age or older [~~and~~
16 ~~the age of the property owner is known or reasonably~~
17 ~~should be known to the person who commits theft~~]; or

18 (h) An electric gun as defined in section 134-81.

19 (2) The requisite state of mind for subsection (1)(g) of
20 this offense is not applicable to the fact that the owner of the
21 property or provider of the services was sixty years of age or



1 older. A person is strictly liable with respect to the
2 attendant circumstance that the owner of the property or
3 provider of the services was sixty years of age or older.

4 [~~2~~] (3) Theft in the second degree is a class C felony.
5 A person convicted of committing the offense of theft in the
6 second degree under subsection (1)(c) and (d) shall be sentenced
7 in accordance with chapter 706, except that for the first
8 offense, the court may impose a minimum sentence of a fine of at
9 least \$1,000 or two-fold damages sustained by the victim,
10 whichever is greater."

11 SECTION 6. Section 708-851, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§708-851 **Forgery in the first degree.** (1) A person
14 commits the offense of forgery in the first degree if, with
15 intent to defraud, the person falsely makes, completes,
16 endorses, or alters a written instrument, or utters a forged
17 instrument, or fraudulently encodes the magnetic ink character
18 recognition numbers, which is or purports to be, or which is
19 calculated to become or to represent if completed:



- 1 (a) Part of an issue of stamps, securities, or other
2 valuable instruments issued by a government or
3 governmental agency;
- 4 (b) Part of an issue of stock, bonds, or other instruments
5 representing interests in or claims against a
6 corporate or other organization or its property; or
- 7 (c) All or part of a deed, will, codicil, contract,
8 assignment, commercial instrument, or other instrument
9 which does or may evidence, create, transfer,
10 terminate, or otherwise affect a legal right,
11 interest, obligation, or status and[+
12 ~~(i) The] the purported maker or drawer of the written
13 instrument or forged instrument is a person who
14 is sixty years of age or older[+and
15 ~~(ii) The age of the purported maker or drawer of the
16 written instrument or forged instrument is known
17 or reasonably should be known to the person who
18 falsely makes, completes, endorses, or alters the
19 instrument; utters the forged instrument; or
20 fraudulently encodes the magnetic ink character
21 recognition numbers of the instrument].~~~~



1 (2) The requisite state of mind for subsection (1)(c) of
2 this offense is not applicable to the fact that the purported
3 maker or drawer of the written instrument or forged instrument
4 was sixty years of age or older. A person is strictly liable
5 with respect to the attendant circumstance that the purported
6 maker or drawer of the written instrument or forged instrument
7 was sixty years of age or older.

8 [~~2~~] (3) Forgery in the first degree is a class B
9 felony."

10 SECTION 7. Section 708-852, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§708-852 **Forgery in the second degree.** (1) A person
13 commits the offense of forgery in the second degree if, with
14 intent to defraud, the person:

15 (a) Falsely makes, completes, endorses, or alters a
16 written instrument, or utters a forged instrument, or
17 fraudulently encodes the magnetic ink character
18 recognition numbers, which is or purports to be, or
19 which is calculated to become or to represent if
20 completed, a deed, will, codicil, contract,
21 assignment, commercial instrument, or other instrument



1 which does or may evidence, create, transfer,
2 terminate, or otherwise affect a legal right,
3 interest, obligation, or status; or

4 (b) Falsely makes, completes, endorses, or alters a
5 written instrument, or utters a forged instrument [+]
6 and[+]

7 ~~(i) The] the purported maker or drawer of the written~~
8 instrument or forged instrument is a person who
9 is sixty years of age or older [~~+~~and

10 ~~(ii) The age of purported maker or drawer of the~~
11 ~~written instrument or forged instrument is known~~
12 ~~or reasonably should be known to the person who~~
13 ~~falsely makes, completes, endorses, or alters a~~
14 ~~written instrument; or utters a forged~~
15 ~~instrument].~~

16 (2) The requisite state of mind for subsection (1)(b) of
17 this offense is not applicable to the fact that the purported
18 maker or drawer of the written instrument or forged instrument
19 was sixty years of age or older. A person is strictly liable
20 with respect to the attendant circumstance that the purported



1 maker or drawer of the written instrument or forged instrument
2 was sixty years of age or older.

3 [~~2~~] (3) Forgery in the second degree is a class C
4 felony."

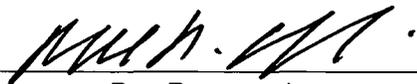
5 SECTION 8. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 9. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect upon its approval.

11

INTRODUCED BY:


By Request



S.B. NO. 2195

Report Title:

Honolulu Prosecuting Attorney Package; Criminal Offenses;
Sentencing; Crimes Against Elders

Description:

Establishes strict liability for crimes against elders with respect to the attendant circumstance that the victim was 60 years of age or older.

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

