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# 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~~] shall be a  
2 class B 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 710-  
13            1031(2), who is engaged in the performance of duty or  
14            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[~~r~~] 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 or -  
3           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 or -  
8           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[~~r~~] 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~~] shall be a  
2 class C 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]~~ shall be 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 (f) of this offense is not applicable to the fact that the  
5 individual from whose person the property was taken, owner of  
6 the property, or provider of the services was sixty years of age  
7 or older. A person is strictly liable with respect to the  
8 attendant circumstance that the individual from whose person the  
9 property was taken, owner of the property, or provider of the  
10 services was sixty years of age or older.

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

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

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

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



1           exclude intruders or where there is prominently  
2           displayed on the premises a sign or signs sufficient  
3           to give notice and reading as follows: "Private  
4           Property", "No Trespassing", or a substantially  
5           similar message;

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



- 1 movement certificates, when a certificate is required  
2 pursuant to chapter 145, [~~is~~] shall be prima facie  
3 evidence that the products are or have been stolen;
- 4 (e) Agricultural commodities that are generally known to  
5 be marketed for commercial purposes. Possession of  
6 agricultural commodities without ownership and  
7 movement certificates, when a certificate is required  
8 pursuant to section 145-22, [~~is~~] shall be prima facie  
9 evidence that the products are or have been stolen;  
10 provided that "agricultural commodities" has the same  
11 meaning as in section 145-21;
- 12 (f) Property commonly used to store items of monetary  
13 value, including but not limited to any purse,  
14 handbag, or wallet;
- 15 (g) Property or services, the value of which exceeds \$250,  
16 from a person who is sixty years of age or older [~~and~~  
17 ~~the age of the property owner is known or reasonably~~  
18 ~~should be known to the person who commits theft~~]; or
- 19 (h) An electric gun as defined in section 134-81.
- 20 (2) The requisite state of mind for subsection (1)(g) of  
21 this offense is not applicable to the fact that the owner of the



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

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

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

14 "**§708-851 Forgery in the first degree.** (1) A person  
15 commits the offense of forgery in the first degree if, with  
16 intent to defraud, the person falsely makes, completes,  
17 endorses, or alters a written instrument, or utters a forged  
18 instrument, or fraudulently encodes the magnetic ink character  
19 recognition numbers, [~~which~~] that is or purports to be, or  
20 [~~which~~] that is calculated to become or to represent if  
21 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~~] that 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] shall be a  
9 class B 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~~] that is or purports to  
19 be, or [~~which~~] that is calculated to become or to  
20 represent if completed, a deed, will, codicil,  
21 contract, assignment, commercial instrument, or other



1 instrument [~~which~~] that does or may evidence, create,  
2 transfer, terminate, or otherwise affect a legal  
3 right, 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~~] shall be a  
4 class C 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 on July 1, 3000.



**Report Title:**

Criminal Offenses; Sentencing; Strict Liability; Crimes Against Elders

**Description:**

Establishes strict liability for crimes against elders with respect to the attendant circumstance that the victim was sixty years of age or older. Effective 7/1/3000. (HD1)

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

