
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 shall not be applicable to the fact that the person
13 who sustained substantial bodily injury was sixty years of age
14 or older. A person shall be 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[7] 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 shall not be applicable to the fact that the person
18 who sustained bodily injury was sixty years of age or older. A
19 person shall be 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~~] has the same
19 meaning as in section 333E-2.

20 "Incapacitated person" [~~shall have~~] has the same meaning as
21 in 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 shall not be 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 shall be strictly liable
16 with respect to the attendant circumstance that the person
17 lawfully present in the dwelling at the time of the entry was
18 sixty years 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 shall not be 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 shall be 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~~]. For purposes of this paragraph,
11 "agricultural commodities" has the same meaning as in
12 section 145-21;
- 13 (f) Property commonly used to store items of monetary
14 value, including but not limited to any purse,
15 handbag, or wallet;
- 16 (g) Property or services, the value of which exceeds \$250,
17 from a person who is sixty years of age or older [~~and~~
18 ~~the age of the property owner is known or reasonably~~
19 ~~should be known to the person who commits theft~~]; or
- 20 (h) An electric gun as defined in section 134-81.



1 (2) The requisite state of mind for subsection (1)(g) of
2 this offense shall not be applicable to the fact that the owner
3 of the property or provider of the services was sixty years of
4 age or older. A person shall be strictly liable with respect to
5 the attendant circumstance that the owner of the property or
6 provider of the services was sixty years of age or older.

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

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

16 "**§708-851 Forgery in the first degree.** (1) A person
17 commits the offense of forgery in the first degree if, with
18 intent to defraud, the person falsely makes, completes,
19 endorses, or alters a written instrument, or utters a forged
20 instrument, or fraudulently encodes the magnetic ink character
21 recognition numbers, ~~[which]~~ that is or purports to be, or



1 ~~[which]~~ that is calculated to become or to represent if
2 completed:

3 (a) Part of an issue of stamps, securities, or other
4 valuable instruments issued by a government or
5 governmental agency;

6 (b) Part of an issue of stock, bonds, or other instruments
7 representing interests in or claims against a
8 corporate or other organization or its property; or

9 (c) All or part of a deed, will, codicil, contract,
10 assignment, or commercial instrument, or other
11 instrument ~~[which]~~, that does or may evidence, create,
12 transfer, terminate, or otherwise affect a legal
13 right, interest, obligation, or status and[+

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

17 ~~(ii) The age of the purported maker or drawer of the~~
18 ~~written instrument or forged instrument is known~~
19 ~~or reasonably should be known to the person who~~
20 ~~falsely makes, completes, endorses, or alters the~~
21 ~~instrument; utters the forged instrument; or~~



1 ~~fraudulently encodes the magnetic ink character~~
2 ~~recognition numbers of the instrument].~~

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

10 [+2+] (3) Forgery in the first degree [is] shall be a
11 class B felony."

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

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

17 (a) Falsely makes, completes, endorses, or alters a
18 written instrument, or utters a forged instrument, or
19 fraudulently encodes the magnetic ink character
20 recognition numbers, [~~which~~] that is or purports to
21 be, or [~~which~~] that is calculated to become or to



1 represent if completed, a deed, will, codicil,
2 contract, assignment, or commercial instrument, or
3 other instrument [~~which~~], that does or may evidence,
4 create, transfer, terminate, or otherwise affect a
5 legal right, interest, obligation, or status; or

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

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

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

18 (2) The requisite state of mind for subsection (1)(b) of
19 this offense shall not be applicable to the fact that the
20 purported maker or drawer of the written instrument or forged
21 instrument was sixty years of age or older. A person shall be



1 strictly liable with respect to the attendant circumstance that
2 the purported maker or drawer of the written instrument or
3 forged instrument was sixty years of age or older.

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

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

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

11 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. (HD2)

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