

JAN 22 2007

A BILL FOR AN ACT

RELATING TO FINANCIAL ABUSE.

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

1 SECTION 1. Reported instances of financial abuse of elders
2 and dependent adults have become increasingly widespread
3 throughout the United States. As one means by which to attempt
4 to curtail this disturbing trend, it is the intent of the
5 legislature to impose, on State-regulated financial institutions
6 and licensed Hawaii escrow depositories, a mandatory duty to
7 report promptly suspected incidents of such abuse to local law
8 enforcement agencies, so that those agencies can determine
9 whether further investigation or other action is warranted.

10 SECTION 2. Chapter 412, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§412: Mandatory reporting of suspected financial abuse
14 of an elder or dependent adult. (a) All officers and employees
15 of a financial institution have a mandatory duty to report
16 suspected financial abuse that is directed towards, targets, or
17 is committed against an elder or dependent adult to a local law
18 enforcement agency.

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- 1 (b) A mandatory duty arises if:
- 2 (1) The officer or employee of a financial institution:
- 3 (A) Has direct contact with the elder or dependent
- 4 adult; or
- 5 (B) Reviews or approves the elder or dependent
- 6 adult's financial documents, records, or
- 7 transactions,
- 8 in connection with providing financial services with
- 9 respect to an elder or dependent adult; and
- 10 (2) Within the scope of the person's employment or
- 11 professional practice, the officer or employee:
- 12 (A) Has observed or has knowledge of an incident that
- 13 is directly related to the transaction or matter
- 14 that is within that scope of employment or
- 15 professional practice, and that reasonably
- 16 appears to be financial abuse; or
- 17 (B) Reasonably suspects that financial abuse has
- 18 occurred or may be occurring, based solely on the
- 19 information present at the time of reviewing or
- 20 approving the document, record, or transaction in
- 21 the case of mandated reporters who do not have
- 22 direct contact with the elder or dependent adult.

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1 (c) Suspected financial abuse shall be reported to a local
2 law enforcement agency by telephone immediately, or as soon as
3 practicably possible, and by written report sent within two
4 workdays."

5 SECTION 3. Chapter 449, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§449- Mandatory reporting of suspected financial abuse
9 of an elder or dependent adult. (a) All officers and employees
10 of an escrow depository have a mandatory duty to report
11 suspected financial abuse that is directed towards, targets, or
12 is committed against an elder or dependent adult to a local law
13 enforcement agency.

14 (b) A mandatory duty arises if:

15 (1) The officer or employee of an escrow depository:

16 (A) Has direct contact with the elder or dependent
17 adult; or

18 (B) Reviews or approves the elder or dependent
19 adult's financial documents, records, or
20 transactions,

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1 in connection with providing escrow depository
2 services with respect to an elder or dependent adult;
3 and
4 (2) Within the scope of the person's employment or
5 professional practice, the officer or employee:
6 (A) Has observed or has knowledge of an incident that
7 is directly related to the transaction or matter
8 that is within that scope of employment or
9 professional practice, and that reasonably
10 appears to be financial abuse; or
11 (B) Reasonably suspects that financial abuse has
12 occurred or may be occurring, based solely on the
13 information present at the time of reviewing or
14 approving the document, record, or transaction in
15 the case of mandated reporters who do not have
16 direct contact with the elder or dependent adult.
17 (c) Suspected financial abuse shall be reported to a local
18 law enforcement agency by telephone immediately, or as soon as
19 practicably possible, and by written report sent within two
20 workdays."

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1 SECTION 4. Section 412:1-109, Hawaii Revised Statutes, is
2 amended by adding three new definitions to be appropriately
3 inserted and to read as follows:

4 "Dependent adult" means any person of the age of majority
5 who, because of mental or physical impairment, is dependent upon
6 another person, a care organization, or a care facility for
7 personal health, safety, or welfare.

8 "Elder" means a person who is a resident of the State and
9 has attained the age of sixty-two years.

10 "Financial abuse" means financial or economic
11 exploitation."

12 SECTION 5. Section 449-1, Hawaii Revised Statutes, is
13 amended by adding three new definitions to be appropriately
14 inserted and to read as follows:

15 "Dependent adult" means any person of the age of majority
16 who, because of mental or physical impairment, is dependent upon
17 another person, a care organization, or a care facility for
18 personal health, safety, or welfare.

19 "Elder" means a person who is a resident of the State and
20 has attained the age of sixty-two years.

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

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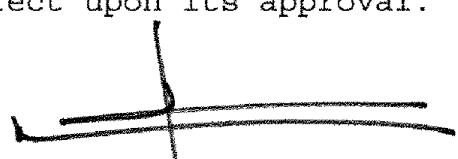
1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO FINANCIAL ABUSE.

PURPOSE: To establish a duty on the part of Hawaii financial institutions and licensed Hawaii escrow depositories to report suspected instances of financial abuse directed towards, targeting, or committed against an elder or a dependent adult to a local law enforcement agency.

MEANS: Add a new section to chapters 412 and 449, Hawaii Revised Statutes (HRS), and amend sections 412:1-109 and 449-1, HRS.

JUSTIFICATION: Reported instances of financial abuse of elders and dependent adults have become increasingly widespread throughout the United States. Many states have enacted specific legislation in an attempt to effectively address and curtail this disturbing trend.

The officers and employees of a financial institution or licensed escrow depository are in a unique position that, on occasion, may afford an opportunity to observe behavior or activity relating to financial transactions involving an elder or dependent adult, which may cause such officer or employee to suspect that a potential instance of financial abuse may have occurred or be occurring.

This bill will impose a mandatory duty on any officer or employee of either a Hawaii state-regulated financial institution or a licensed Hawaii escrow depository to report, without delay, a suspected incident of such abuse, by telephone, and also by filing a written report within two working days, to a local law enforcement agency.

Impact on the public: This legislation will put in place an initial mechanism to report and curtail instances of suspected financial abuse directed towards, targeting, or committed against elders and dependent adults. As such, it represents an important new consumer protection measure.

Impact on the department and other agencies: This legislation is not expected to have a significant operational impact on the department or other agencies; however, local law enforcement agencies would be tasked with receiving any reports of suspected financial abuse for investigation and follow up.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-104.

OTHER AFFECTED
AGENCIES: Local law enforcement agencies.

EFFECTIVE DATE: Upon approval.