
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 have become increasingly widespread throughout the United
3 States. As one means by which to attempt to curtail this
4 disturbing trend, it is the intent of the legislature to impose
5 on financial institutions a duty to promptly report suspected
6 incidents of financial abuse to local law enforcement agencies
7 or the department of human services, so that those agencies can
8 determine whether further investigation or other action is
9 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. (a) A financial institution shall report
15 suspected financial abuse that is directed towards, targets, or
16 is committed against an elder to the department of human
17 services if:



- 1 (1) In connection with providing financial services to the
2 elder, the officer or employee of a financial
3 institution:
- 4 (A) Has direct contact with the elder; or
5 (B) Reviews or approves the elder's financial
6 documents, records, or transactions;
7 and
- 8 (2) The officer or employee, within the scope of
9 employment or professional practice:
- 10 (A) Observes or has knowledge of an incident the
11 officer or employee believes in good faith
12 appears to be financial abuse; or
- 13 (B) In the case of officers or employers who do not
14 have direct contact with the elder, has a good
15 faith suspicion that financial abuse has occurred
16 or may be occurring, based solely on the
17 information present at the time of reviewing or
18 approving the document, record, or transaction.
- 19 (b) Suspected financial abuse shall be reported
20 immediately to the department by telephone and by written report
21 sent within five business days.



1 (c) Upon notification by a financial institution of
2 suspected financial abuse, the department, in a timely manner,
3 shall determine whether the department has jurisdiction over the
4 elder involved; and if not, shall notify the financial
5 institution, which shall then notify the proper local law
6 enforcement agency immediately by telephone and forward the
7 written report to the agency within three business days. A
8 financial institution shall not be liable for failing to report
9 suspected financial abuse to a local law enforcement agency in
10 cases in which the department fails to notify the institution of
11 the department's lack of jurisdiction.

12 (d) Notwithstanding any other state law to the contrary,
13 including but not limited to laws concerning confidentiality,
14 any person, including the financial institution, who:

15 (1) Participates in the making of a report pursuant to
16 this section; and

17 (2) Believes, in good faith, that the action is warranted
18 by facts known to that person,

19 shall have immunity from any liability, civil or criminal, that
20 might be otherwise incurred or imposed by or as a result of the
21 making of the report. Any person making the report shall have



1 the same immunity with respect to participation in any judicial
2 proceeding resulting from the report.

3 (e) For the purposes of this section:

4 "Department" means the department of human services.

5 "Elder" means a person who is sixty-two years of age or
6 older.

7 "Financial abuse" means financial abuse or economic
8 exploitation."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Financial Institutions; Financial Abuse

Description:

Requires financial institutions to report suspected instances of financial abuse directed towards, targeting, or committed against an elder to the department of human services. Requires the department of human services to notify the reporting institutions of suspected cases over which it does not have jurisdiction. Mandates financial institutions to notify the proper local law enforcement agency of suspected cases over which the department of human services does not have jurisdiction. (CD1)

