

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 a local law enforcement agency or the department of human services. (SD2)*

THE SENATE
 TWENTY-FOURTH LEGISLATURE, 2007
 STATE OF HAWAII

S.B. NO. ¹⁴⁰⁰
 S.D. 2

A BILL FOR AN ACT

*RELATING TO FINANCIAL ABUSE.***BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Reported instances of financial abuse of elders have become increasingly widespread throughout the United States. As one means by which to attempt to curtail this disturbing trend, it is the intent of the legislature to impose, on state-regulated financial institutions, a mandatory duty to report promptly suspected incidents of financial abuse to local law enforcement agencies or the department of human services, so that those agencies can determine whether further investigation or other action is warranted.

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

"§412: Mandatory reporting of suspected financial abuse of an

elder. (a) A financial institution shall report suspected financial abuse that is directed towards, targets, or is committed against an elder to a local law enforcement agency or the department of human services if:

(1) In connection with providing financial services with the elder, the officer or employee of a financial institution:

(A) Has direct contact with the elder; or

(B) Reviews or approves the elder's financial documents, records, or transactions; and

(2) The officer or employee, within the scope of employment or professional practice:

(A) Observed or has knowledge of an incident the officer or employee believes in good faith appears to be financial abuse; or

(B) In the case of officers or employers who do not have direct contact with the elder, has a good faith suspicion that financial abuse has occurred or may be occurring, based solely on the information present at the time of reviewing or approving the document, record, or transaction.

(b) Suspected financial abuse shall be reported to a local law enforcement agency or the department of human services by telephone immediately and by written report sent within five business days.

(c) Notwithstanding any other state law to the contrary, including but not limited to laws concerning confidentiality, any person, including the financial institution, who, in good faith

believes that the action is warranted by facts known to that person, participates in the making of a report pursuant to this section, shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of the report. Any person making the report shall have the same immunity with respect to participation in any judicial proceeding resulting from the report."

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

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

"Financial abuse" means financial or economic exploitation."

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.