
A BILL FOR AN ACT

RELATING TO THE ELDERLY.

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

1 PART I

2 SECTION 1. Chapter 708, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§708- Financial exploitation of an elder. (1) A
6 person commits the offense of financial exploitation of an elder
7 if the person intentionally obtains or exerts control over the
8 assets, money, or property of an elder, and the person:

9 (a) Breaches the person's fiduciary duty, resulting in the
10 unauthorized appropriation, sale, or transfer of
11 assets, money, or property; and

12 (b) Does so without authorization and with intent to
13 deprive the elder of the assets, money, or property.

14 (2) Financial exploitation of an elder is punishable as a:

15 (a) Misdemeanor if the value of the assets, money, or
16 property is not greater than \$500;

17 (b) Class C felony if the value of the assets, money, or
18 property is \$500 or more but less than \$5,000;



1 mandatory minimum term of imprisonment without possibility of
2 parole as [~~follows~~] provided in subsection (2).

3 (2) The mandatory minimum term of imprisonment that shall
4 be imposed pursuant to this section shall be as follows:

5 [~~1~~] (a) For murder in the second degree--fifteen years;

6 [~~2~~] (b) For a class A felony--six years, eight months;

7 [~~3~~] (c) For a class B felony--three years, four months;

8 or

9 [~~4~~] (d) For a class C felony--one year, eight months."

10 SECTION 3. This part does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 PART II

14 SECTION 4. Section 327E-3, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) An adult or emancipated minor may execute a power of
17 attorney for health care, which may authorize the agent to make
18 any health-care decision the principal could have made while
19 having capacity. The power remains in effect notwithstanding
20 the principal's later incapacity and may include individual
21 instructions. Unless related to the principal by blood,
22 marriage, civil union, or adoption, an agent may not be an



1 owner, operator, or employee of the health-care institution at
2 which the principal is receiving care. The power shall be in
3 writing, contain the date of its execution, be signed by the
4 principal, and be witnessed by one of the following methods:

5 (1) Signed by at least two individuals[~~r~~] unrelated by
6 blood, marriage, civil union, or adoption, each of
7 whom witnessed either the signing of the instrument by
8 the principal or the principal's acknowledgment of the
9 signature of the instrument; or

10 (2) Acknowledged before a notary public at any place
11 within this State."

12 SECTION 5. Section 412:3-114.5, Hawaii Revised Statutes,
13 is amended by amending subsections (b) and (c) to read as
14 follows:

15 "(b) Suspected financial abuse shall be reported
16 immediately to the adult protective services of the department
17 and the appropriate county police department initially by
18 telephone and then by written report sent by electronic mail
19 within five business days[~~r~~] after the initial report, to the
20 department and the appropriate county police department.

21 (c) Upon notification by a financial institution of
22 suspected financial abuse, the department, in a timely manner,



1 shall determine whether the department has jurisdiction over the
2 elder involved; and if not, shall notify the financial
3 institution~~[, which shall then notify the proper local law~~
4 ~~enforcement agency and the appropriate county police department~~
5 ~~immediately by telephone and forward the written report to the~~
6 ~~agency within three business days. A financial institution~~
7 ~~shall not be liable for failing to report suspected financial~~
8 ~~abuse to a local law enforcement agency in cases in which the~~
9 ~~department fails to notify the institution of the department's~~
10 ~~lack of jurisdiction.] and the appropriate county police~~
11 department immediately by telephone and by electronic mail."

12 PART III

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Financial Exploitation of Dependent Elder

Description:

Creates the crime of financial exploitation of an elder and provides enhanced penalties. Requires two signatures of unrelated persons as witnesses to the execution of a power of attorney for health care. Requires financial institutions to report suspected financial abuse to the adult protective services of the Department of Human Services and the appropriate county police department. Effective July 1, 2050. (HD2192 HD1)

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

