

- 1 (a) Misdemeanor if the value of the assets, money, or
2 property is not greater than \$500;
- 3 (b) Class C felony if the value of the assets, money, or
4 property is \$500 or more but less than \$5,000;
- 5 (c) Class B felony if the value of the assets, money, or
6 property is \$5,000 or more but less than \$10,000; and
- 7 (d) Class A felony if the value of the assets, money, or
8 property is \$10,000 or more.

9 (3) As used in this section:

10 "Elder" means any person sixty-two years of age or older."

11 SECTION 2. Section 706-660.2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§706-660.2 Sentence of imprisonment for offenses against**
14 **children, elder persons, or handicapped persons.**

15 Notwithstanding section 706-669, a person who~~[7]~~ is convicted of
16 financial and economic exploitation of a dependent elder under
17 section 708- , in the course of committing or attempting to
18 commit a felony, causes the death or inflicts serious or
19 substantial bodily injury upon a person who is~~+~~

20 ~~(1) Sixty]~~ sixty years of age or older;

21 ~~[(2) Blind,]~~ blind, a paraplegic, or a quadriplegic; or

22 ~~[(3) Eight]~~ eight years of age or younger;



1 and such disability is known or reasonably should be known to
2 the defendant, shall, if not subjected to an extended term of
3 imprisonment pursuant to section 706-662, be sentenced to a
4 mandatory minimum term of imprisonment without possibility of
5 parole as follows:

- 6 ~~[(1)]~~ (a) For murder in the second degree--fifteen years;
- 7 ~~[(2)]~~ (b) For a class A felony--six years, eight months;
- 8 ~~[(3)]~~ (c) For a class B felony--three years, four months;
- 9 and
- 10 ~~[(4)]~~ (d) For a class C felony--one year, eight months."

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

14 **PART II**

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

17 "(b) An adult or emancipated minor may execute a power of
18 attorney for health care, which may authorize the agent to make
19 any health-care decision the principal could have made while
20 having capacity. The power remains in effect notwithstanding
21 the principal's later incapacity and may include individual
22 instructions. Unless related to the principal by blood,



1 marriage, civil union, or adoption, an agent may not be an
2 owner, operator, or employee of the health care institution at
3 which the principal is receiving care. The power shall be in
4 writing, contain the date of its execution, be signed by the
5 principal, and be witnessed by one of the following methods:

- 6 (1) Signed by at least two individuals[7] unrelated by
7 blood, marriage, civil union, or adoption, each of
8 whom witnessed either the signing of the instrument by
9 the principal or the principal's acknowledgment of the
10 signature of the instrument; or
11 (2) Acknowledged before a notary public at any place
12 within this State."

13 SECTION 5. Section 412:3-114.5, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "[+]§412:3-114.5[+] **Mandatory reporting of suspected**
16 **financial abuse of an elder.** (a) A financial institution shall
17 report suspected financial abuse that is directed towards,
18 targets, or is committed against an elder to [~~the department of~~
19 ~~human services~~] the appropriate police department if:

- 20 (1) In connection with providing financial services to the
21 elder, the officer or employee of a financial
22 institution:



- 1 (A) Has direct contact with the elder; or
- 2 (B) Reviews or approves the elder's financial
- 3 documents, records, or transactions; and
- 4 (2) The officer or employee, within the scope of
- 5 employment or professional practice:
 - 6 (A) Observes or has knowledge of an incident the
 - 7 officer or employee believes in good faith
 - 8 appears to be financial abuse; or
 - 9 (B) In the case of officers or employers who do not
 - 10 have direct contact with the elder, has a good
 - 11 faith suspicion that financial abuse has occurred
 - 12 or may be occurring, based solely on the
 - 13 information present at the time of reviewing or
 - 14 approving the document, record, or transaction.

15 (b) Suspected financial abuse shall be reported
16 [~~immediately~~] to the appropriate police department by telephone
17 immediately, and by written report [~~sent within five business~~
18 ~~days.~~] via electronic mail immediately or as soon thereafter as
19 practically possible.

20 [~~(c) Upon notification by a financial institution of~~
21 ~~suspected financial abuse, the department, in a timely manner,~~
22 ~~shall determine whether the department has jurisdiction over the~~



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

9 ~~[-(d)]~~ (c) Notwithstanding any other state law to the
10 contrary, including but not limited to laws concerning
11 confidentiality, any person, including the financial
12 institution, who:

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

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

17 shall have immunity from any liability, civil or criminal, that
18 might be otherwise incurred or imposed by or as a result of the
19 making of the report. Any person making the report shall have
20 the same immunity with respect to participation in any judicial
21 proceeding resulting from the report.

22 ~~[-(e)]~~ (d) For the purposes of this section:



Report Title:

Financial Exploitation of Dependent Elder

Description:

Creates the crime of financial and economic exploitation of an elder and provides enhanced penalties. Requires financial institutions to report suspected financial abuse to the appropriate police department. Requires two signatures of unrelated persons as witnesses to the execution of a power of attorney for health care. (SD1)

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