

Honolulu, Hawaii

FEB 17, 2012

RE: H.B.; No. 2192
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Judiciary and Consumer Protection & Commerce, to which was referred H.B. No. 2192, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ELDERLY,"

beg leave to report as follows:

The purpose of this measure is to safeguard the elderly from financial exploitation by:

- (1) Establishing the criminal offense of financial exploitation of an elder; and
- (2) Requiring financial institutions to immediately report suspected financial abuse to the Adult Protective Services Division of the Department of Human Services and the appropriate county police department.

The Judiciary, Department of Human Services, Department of Commerce and Consumer Affairs, Executive Office on Aging, Department of the Prosecuting Attorney for the City and County of Honolulu, Hawaii Bankers Association, Hawaii Credit Union League, Community Alliance on Prisons, Kokua Council, and one individual testified in support of this measure.

Your Committees have amended this measure by:

- (1) Clarifying the offense of financial exploitation of an elder in Section 1, by:




- (A) Making the two elements that describe the offense mutually exclusive as opposed to requiring that both the elements be committed in order for a person to be charged with the offense;
 - (B) Increasing the monetary threshold from \$500 to \$750 between a misdemeanor and class C felony;
- (2) Amending section 412:3-114.5, Hawaii Revised Statutes by:
- (A) Requiring financial institutions to report suspected financial abuse of an elder only to the appropriate federal or county law enforcement authority and deleting the requirement to report to the Adult Protective Services Division of the Department of Human Services;
 - (B) Deleting provisions that relieve financial institutions from liability if they fail to report suspected financial abuse; and
 - (C) Authorizing the Commissioner of Financial Institutions to prescribe a standardized form on which financial institutions may report suspected financial abuse of an elder;
- (3) Removing provisions relating to the relationship between the principal and witnesses to a power of attorney for health care;
- (4) Inserting the contents of H.B. 2098, H.D. 1, authorizing a private right of action for financial exploitation of a vulnerable adult, and replacing the term "vulnerable adult" with "elder";
- (5) Changing the effective date to January 7, 2059, to encourage further discussion on this measure; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2192, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2192, H.D. 2.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Consumer Protection & Commerce,

For: 
ROBERT N. HERKES, Chair


GILBERT KEITH-AGARAN, Chair



