

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 2314
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 2314 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of financial and economic exploitation of a dependent elder and accompanying penalties;
- (2) Require financial institutions to report suspected financial abuse to the Adult Protective Services and proper local law enforcement agencies; and
- (3) Require two signatures of unrelated persons as witnesses to the execution of a power of attorney for health care.

Your Committee received testimony in support of this measure from the Judiciary, State of Hawaii; the Division of Financial Institutions, Department of Commerce and Consumer Affairs; the Department of Human Services; the Department of the Prosecuting Attorney, City and County of Honolulu; the Hawaii Credit Union League; Healthcare Association of Hawaii; and three individuals. Your Committee received comments on this measure from the Hawaii Bankers Association.



Your Committee finds that there have been an increasing number of cases involving financial exploitation of the elderly not only by caregivers, but by acquaintances, friends, and family members. Financial crimes against the elderly can take many forms, and can be just as devastating as physical injuries, leaving victims isolated, vulnerable, and scared.

Your Committee finds that this measure limits the protections offered to dependent elders because the offense of financial and economic exploitation of a dependent elder only applies if committed by a caregiver. Given the unfortunate fact that this type of financial and economic exploitation is often committed by acquaintances, friends, and family members of dependent elders, your Committee finds that these acts committed by any person should constitute the offense.

Your Committee also received testimony from the Division of Financial Institutions indicating that the reporting requirements for financial institutions may be overly burdensome.

Your Committee has therefore amended this measure by:

- (1) Expanding the scope of potential violators of the offense of financial and economic exploitation of a dependent elder to any person, not just caregivers, who performs or fails to perform certain acts, and deleting the definition of "caregiver";
- (2) Streamlining the elements of the offense;
- (3) Amending the definition of "elder" to be any person sixty-two years of age or older;
- (4) Requiring financial institutions to report suspected financial abuse to the appropriate police department by telephone immediately, and by written report via electronic mail immediately or as soon thereafter as practically possible;
- (5) Amending language to require financial institutions to report suspected financial abuse to appropriate police departments, rather than the Department of Human Services;



- (6) Deleting language that requires the Department of Human Services to determine whether it has jurisdiction over an elder suspected of financial abuse and language that requires the Department to notify the proper local law enforcement agency;
- (7) Deleting the definition of "department", in section 412:3-114.5, Hawaii Revised Statutes; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee requests that the Hawaii Bankers Association, the Hawaii Credit Union League, the Department of Human Services, and local police departments work collectively to develop a common reporting form and process for financial institutions to use to enhance consistent, efficient, and timely reporting.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2314, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2314, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,

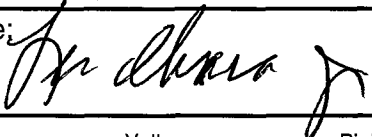
Suzanne Chun Oakland

SUZANNE CHUN OAKLAND, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* SB 2314	Committee Referral: HMS, JOL	Date: 2-9-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
GREEN, M.D., Josh	✓			
SLOM, Sam				✓
TOTAL	3	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes