
A BILL FOR AN ACT

RELATING TO THE ELDERLY.

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

1 SECTION 1. Section 412:3-114.5, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "~~{}~~§412:3-114.5~~{}~~ **Mandatory reporting of suspected**
4 **financial abuse of an elder.** (a) A financial institution shall
5 report suspected financial abuse that is directed towards,
6 targets, or is committed against an elder to ~~[the department of~~
7 ~~human services if:]~~ the appropriate county police department if:

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

11 (A) Has direct contact with the elder; or

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

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

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



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

7 (b) Suspected financial abuse shall be reported
8 immediately [~~to the department~~] by telephone [~~and by written~~
9 ~~report sent within five business days.~~

10 ~~(c) Upon notification by a financial institution of~~
11 ~~suspected financial abuse, the department, in a timely manner,~~
12 ~~shall determine whether the department has jurisdiction over the~~
13 ~~elder involved; and if not, shall notify the financial~~
14 ~~institution, which shall then notify the proper local law~~
15 ~~enforcement agency immediately by telephone and forward the~~
16 ~~written report to the agency within three business days. A~~
17 ~~financial institution shall not be liable for failing to report~~
18 ~~suspected financial abuse to a local law enforcement agency in~~
19 ~~cases in which the department fails to notify the institution of~~
20 ~~the department's lack of jurisdiction.], or as soon as~~
21 practicably possible, and by written report sent within two
22 business days, to the appropriate county police department.



1 ~~[(d)]~~ (c) Notwithstanding any other state law to the
2 contrary, including but not limited to laws concerning
3 confidentiality, any person, including ~~[the]~~ a financial
4 institution, who:

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

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

9 shall have immunity from any liability, civil or criminal, that
10 might be otherwise incurred or imposed by or as a result of the
11 making of the report. Any person making the report shall have
12 the same immunity with respect to participation in any judicial
13 proceeding resulting from the report.

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

15 ~~["Department" means the department of human services.]~~

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

18 "Financial abuse" means ~~[financial abuse or economic~~
19 exploitation.] to take, appropriate, obtain, or retain, or
20 assist in taking, appropriating, obtaining, or retaining, real
21 or personal property of an elder adult by any means, including



1 undue influence, for a wrongful purpose or with intent to
2 defraud the elder adult."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

6



Report Title:

Financial Abuse; Elder; Notification

Description:

Amend section 412:3-114.5, Hawaii Revised Statutes, to require financial institutions to report instances of suspected financial abuse of an elder directly to the appropriate police department instead of the Department of Human Services. (SD1)

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