



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 14, 2013

**MEMORANDUM**

TO: The Honorable Mele Carroll, Chair  
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 382 - RELATING TO MANDATORY REPORTING**

Hearing: Thursday, February 14, 2013; 9:30 a.m.  
Conference Room 329, State Capitol

**PURPOSE:** The purpose of H.B. 382 is to require financial institutions to report suspected financial abuse of an elder to an appropriate police department and allows reporting to the Department of Human Services (DHS.) The bill also mandates that information received by DHS be shared with the police or prosecutor.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of this bill to require immediate reporting of suspected financial abuse from the financial institutions to the appropriate county police departments.

Attached for your consideration is proposed amending language to Administration Bill H.B. 867, that also proposes to facilitate mandatory financial abuse of elders. The amending language proposed was developed after further discussions with the financial institutions and are still on-going.

Thank you for the opportunity to provide comments on this bill.

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A BILL FOR AN ACT

RELATING TO THE MANDATORY REPORTING OF FINANCIAL ABUSE OF ELDERS  
BY FINANCIAL INSTITUTIONS.

**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:]~~ and the appropriate county police  
8 department if:

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

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

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

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

# H.B. NO. 867

PROPOSED HD1

1 (A) Observes or has knowledge of an incident the  
2 officer or employee believes in good faith  
3 appears to be financial abuse; or

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

10 (b) Suspected financial abuse shall be reported  
11 ~~[immediately to the department]~~ by telephone, or facsimile, or  
12 electronic device immediately or as soon as practicably  
13 possible, to the department and the appropriate county police  
14 department. ~~[and by written report sent within five business~~  
15 ~~days.]~~

16 (c) Upon notification by a financial institution of  
17 suspected financial abuse, the department, in a timely manner,  
18 shall determine whether the department has jurisdiction over the  
19 elder involved~~;~~ ~~and if not, shall notify the financial~~  
20 ~~institution, which shall then notify the proper local law~~  
21 ~~enforcement agency immediately by telephone and forward the~~  
22 ~~written report to the agency within three business days. A~~

# H.B. NO. 867

PROPOSED HD1

1 ~~financial institution shall not be liable for failing to report~~  
2 ~~suspected financial abuse to a local law enforcement agency in~~  
3 ~~cases in which the department fails to notify the institution of~~  
4 ~~the department's lack of jurisdiction.] and proceed in~~  
5 accordance with chapter 346.

6 (d) Upon notification by a financial institution of  
7 suspected financial abuse, the county police department, in a  
8 timely manner, shall proceed with a criminal investigation.

9 ~~(d)~~ (e) Notwithstanding any other state law to the  
10 contrary, including but not limited to laws concerning  
11 confidentiality, any person, including ~~the~~ a 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)~~ (f) For the purposes of this section:

# H.B. NO. 867

PROPOSED HD1

1 "Department" means the department of human services.

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

4 "Financial abuse" means financial [~~abuse or economic~~  
5 ~~exploitation.~~] to take, appropriate, obtain, or retain, or  
6 assist in taking, appropriating, obtaining, or retaining, real  
7 or personal property of an elder adult by any means, including  
8 undue influence, for a wrongful purpose or with intent to  
9 defraud the elder adult."

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

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

13

14 INTRODUCED BY: \_\_\_\_\_

15 BY REQUEST

16

# H.B. NO. 867

PROPOSED HD1

**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.

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

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

KIRK W. CALDWELL  
MAYOR



LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE **LH-NTK**

February 14, 2013

The Honorable Mele Carroll, Chair  
and Members  
Committee on Human Services  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Carroll and Members:

Subject: House Bill No. 382, Relating to Mandatory Reporting

I am Lester Hite, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes House Bill No. 382, Relating to Mandatory Reporting.

This bill proposes that the financial institutions report suspected financial abuse incidents against an elderly person to the appropriate police department. We recommend that the Department of Human Services continue to protect and assist the elderly in instances of both civil and criminal fraud. The initial screening of the complaint is critical in obtaining the proper assistance for the elderly person in the most efficient way possible.

The primary role for law enforcement is to apprehend the perpetrators in criminal cases. Support services and assistance to the elderly victims in financial fraud cases may be unduly delayed due to the proposed amendments.

We recognize that financial abuse incidents against the elderly are a growing concern. We have increased our education and enforcement efforts in this area and will continue to seek ways to address these crimes.

The Honorable Mele Carroll, Chair  
and Members  
Page 2  
February 14, 2013

The Honolulu Police Department urges you to oppose House Bill No. 382,  
Relating to Mandatory Reporting.

Thank you for the opportunity to testify.

Sincerely,

*Lester Hite*  
LESTER HITE, Captain  
Criminal Investigation Division

APPROVED:

*Louis M. Kealoaha*  
LOUIS M. KEALOHA  
Chief of Police



**TESTIMONY OF THE HAWAII POLICE DEPARTMENT**

**HOUSE BILL 382**

**RELATING TO MANDATORY REPORTING**

BEFORE THE COMMITTEE ON HUMAN SERVICES

DATE : Thursday, February 14, 2013

TIME : 9:30 A.M.

PLACE : Conference Room 329  
State Capitol  
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Harry S. Kubojiri  
Hawaii Police Department  
County of Hawaii

(Written Testimony Only)

February 11, 2013

The Honorable Mele Carroll,  
Chair and Committee Members  
Committee on Human Services  
State House of Representatives  
415 South Beretania Street, Room 329  
Honolulu, Hawai`i 96813

**Re: House Bill 382 Relating to Mandatory Reporting**

Dear Representative Carroll:

The Hawai`i Police Department opposes House Bill 382 with its purpose being to require a financial institution to report suspected financial abuse against an elder to the appropriate county police department, rather than the department of human services.

Our opposition is out of concern that the potential elderly abuse victim should continue to be screened by the Department of Human Services (DHS). We firmly believe DHS is the agency best suited to ensure the best interests of the elderly are paramount, as civil financial abuse rather than criminal fraud may be involved. The county police departments have no jurisdiction in matters involving the civil process.

We further believe that the occurrence of civil financial abuse may be an indicator that the elderly victim may be in need of social services assistance which again would be best proffered by DHS. In the event the matter requires police involvement, DHS could then make the appropriate referrals.

It is for these reasons, we urge your committees to disapprove this legislation.

Thank you for allowing the Hawai`i Police Department to provide comments relating to House Bill 382.

Sincerely,

HARRY S. KUBOJIRI  
POLICE CHIEF

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII

LORETTA FUDDY, ACSW, MPH  
DIRECTOR OF HEALTH



STATE OF HAWAII  
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**Committee on Human Services**

**HB382, RELATING TO MANDATORY REPORTING**

**Testimony of Wes Lum  
Director, Executive Office on Aging  
Attached Agency to the Department of Health**

**Thursday, February 14, 2013; Conference Room 329**

**9:30 a.m.**

1 **EOA's Position:** The Executive Office on Aging (EOA) supports the intent of this measure but  
2 prefers HB867 which is part of the Governor's Administrative Bill Package.

3 **Purpose and Justification:** Elder financial exploitation is a growing problem in Hawaii.  
4 Financial abuse of elders is frequently accompanied by physical and emotional abuse. It is a  
5 complex problem with both criminal and social components that speaks to the need of a  
6 multidisciplinary solution. The reporting of financial exploitation via the most appropriate channel  
7 and the resulting timeliness of the investigation is crucial to the conservation of assets as well as  
8 the health and safety of the victim. This bill requires financial institutions to report suspected  
9 financial abuse of an elder to the appropriate police department and the Department of Human  
10 Services (DHS).

11 EOA supports the position of DHS and defers to their recommendations. Thank you for  
12 the opportunity to testify.



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Presentation to  
Committee on Human Services (HUS)  
February 14, 2013 at 9:30 am  
State Capitol Conference Room 329

**Testimony in Support of H. B. 382**

TO: The Honorable Mele Carroll, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
Members of the HUS Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing all FDIC insured depository institutions operating in the State of Hawaii.

Financial institutions have been tasked with the responsibility of reporting suspected financial abuse of an elder and we will always make our best effort to detect such abuse and report it to the proper authorities for further investigation and action. This bill directs the reporting from the Department of Human Services (DHS) to the appropriate county law enforcement entities and we have no objections to this change. However, we want to make this process as efficient and effective as possible, for both our financial institutions and all others involved.

Reporting by telephone is often a hit and miss proposition. We want to report these cases as quickly as possible and would suggest that we dispense with the phone call and instead have the financial institution email the report to an address box at the appropriate law enforcement office. Of course, we would be available via telephone to provide further details, if the written report is not sufficient.

There has been some discussion that reporting should go to both DHS and law enforcement. In fact, we have no objections to reporting to both entities, as long as we can do so efficiently. So, if the email option is acceptable, financial institutions could email their reports to both entities, at their designated mailbox. We have suggested an efficient reporting process to DHS and they seem agreeable to our suggestion.

In summary, we will defer to the authorities to resolve their jurisdictional issues but we hope that regardless of where the reports are destined, financial institutions will be able to do so efficiently via the use of email or some other electronic means.

Edward Y. W. Pei  
(808) 524-5161



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Testimony to the House Committee on Human Services  
February 14, 2013

Testimony in support of intent of HB 382 – Relating to Mandatory Reporting

To: The Honorable Mele Carroll, Chair  
The Honorable Bertrand Kobayashi, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 78 Hawaii credit unions, representing approximately 804,000 credit union members across the state.

We are in support of the intent of HB 382, which would require that financial institutions report instances of suspected financial abuse of an elder to the appropriate county police department, and suggest amendments. While we support reporting to the police departments, we do not support removing DHS; we would support dual reporting. By being able to report such crimes directly to both DHS and the police department, valuable time could be saved. In many situations where an elderly person's financial information and/or accounts are being threatened, credit unions have been able to circumvent the loss of funds simply by raising concerns to law enforcement. By placing local law enforcement in the "front lines", an important layer of security is added, which could make the difference between losing money to fraud and being able to prevent it.

We also suggest that electronic mail (e-mail) be specified as the primary method of communication. This would greatly expedite the process. We would also request that a standardized reporting form be provided for use by financial institutions.

Thank you for the opportunity to testify.

**kobayashi1-Joni**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 12, 2013 10:34 AM  
**To:** HUS testimony  
**Cc:** jojemay@yahoo.com  
**Subject:** Submitted testimony for HB382 on Feb 14, 2013 09:30AM

**HB382**

Submitted on: 2/12/2013

Testimony for HUS on Feb 14, 2013 09:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Josephine Besario	Individual	Support	No

Comments: Financial Abuse; Elderly; Mandatory Reporting Description: Requires financial institutions to report suspected financial abuse of an elder to an appropriate police department and allows reporting to the Department of Human Services. Mandates information sharing with the police or prosecutor.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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