
A BILL FOR AN ACT

RELATING TO MANDATORY REPORTING.

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 appropriate
7 police department ~~[of human services]~~ and may report suspected
8 financial abuse to the 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:



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~~]:

11 (1) Shall be reported immediately [~~to the department~~]
12 or as soon as practicably possible to the
13 appropriate police department by telephone and by
14 [~~written report sent within five business days.~~]
15 electronic communication; and

16 (2) Shall be reported within two business days to the
17 appropriate police department by written report.

18 (c) [~~Upon notification by a financial institution of~~
19 ~~suspected financial abuse, the department, in a timely manner,~~
20 ~~shall determine whether the department has jurisdiction over the~~
21 ~~elder involved; and if not, shall notify the financial~~
22 ~~institution, which shall then notify the proper local law~~



1 ~~enforcement agency immediately by telephone and forward the~~
2 ~~written report to the agency within three business days. A~~
3 ~~financial institution shall not be liable for failing to report~~
4 ~~suspected financial abuse to a local law enforcement agency in~~
5 ~~cases in which the department fails to notify the institution of~~
6 ~~the department's lack of jurisdiction.] The department shall~~
7 inform the appropriate police department of all reports received
8 by the department regarding a case of financial abuse; provided
9 that the name of the person who reported the case of financial
10 abuse shall be released to the police department pursuant only
11 to court order or the person's consent.

12 (d) The department shall inform the appropriate police
13 department or office of the prosecuting attorney of any relevant
14 information concerning a case of financial abuse when the
15 information is requested by the police department or office of
16 the prosecuting attorney for the investigation or prosecution of
17 that case; provided that the name of the person who reported the
18 case of financial abuse shall be released to the police
19 department or office of the prosecuting attorney pursuant only
20 to court order or the person's consent.

21 ~~(d)]~~ (e) Notwithstanding any other state law to the
22 contrary, including but not limited to laws concerning



1 confidentiality, any person, including the financial
2 institution, who:

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

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

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

12 [~~e~~] (f) For the purposes of this section:

13 "Department" means the department of human services.

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

16 "Financial abuse" means financial abuse or economic
17 exploitation."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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

21

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Report Title:

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.

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