
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:]~~ 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:



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 [and by written~~
12 ~~report sent within five business days.]~~, facsimile, or any other
13 electronic device immediately or as soon as practically
14 possible, to the department and the appropriate county police
15 department.

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



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 department and the appropriate
8 county police department shall proceed with a criminal
9 investigation in a timely manner.

10 ~~[-(d)]~~ (e) Notwithstanding any other state law to the
11 contrary, including but not limited to laws concerning
12 confidentiality, any person, including [the] a financial
13 institution, who:

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

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

18 shall have immunity from any liability, civil or criminal, that
19 might be otherwise incurred or imposed by or as a result of the
20 making of the report. Any person making the report shall have
21 the same immunity with respect to participation in any judicial
22 proceeding resulting from the report.



1 (f) The department of commerce and consumer affairs shall
2 develop a form that shall be used by any financial institution
3 or person in documenting and reporting incidents of suspected
4 financial abuse of elders as provided under this section. All
5 financial institutions shall use the form to comply with the
6 provisions of this section.

7 ~~[-e-]~~ (g) For the purposes of this section:

8 "Department" means the department of human services.

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

11 "Financial abuse" means ~~[financial abuse or economic~~
12 ~~exploitation.]~~ to take, appropriate, obtain, or retain, or
13 assist in taking, appropriating, obtaining, or retaining, real
14 or personal property of an elder adult by any means, including
15 undue influence, for a wrongful purpose or with intent to
16 defraud the elder adult."

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 Statutory material to be repealed is bracketed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

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



Report Title:

Financial Abuse; Elder; Reporting; Notification

Description:

Requires financial institutions to report suspected financial abuse that is directed towards, targets, or is committed against an elder, to the Department of Human Services and the appropriate county police department. (HB3 HD1)

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