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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 and 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:



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.]~~, or facsimile or  
 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 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:



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

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.



**Report Title:**

Financial Abuse; Elder; Notification

**Description:**

Expands notification for financial abuse of an elder by requiring financial institutions to report suspected abuse directly to the appropriate police department. Allows for reports by facsimile and electronic device. Clarifies the definition of financial abuse. (HB867 HD1)

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

