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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that financial  
2 exploitation of vulnerable adults is a growing form of abuse.  
3 Vulnerable adults are adults who, due to illness or incapacity,  
4 are unable to manage their own care or carry out essential daily  
5 activities without assistance. Vulnerable adults, including the  
6 elderly or disabled, rely on caregivers for basic daily tasks  
7 such as paying bills and managing finances. Financial  
8 exploitation of a vulnerable person occurs when a person misuses  
9 or takes the assets of a vulnerable person for that person's own  
10 personal benefit. This frequently occurs without the explicit  
11 knowledge or consent of the vulnerable person and deprives the  
12 victim of vital financial resources. Assets are commonly taken  
13 through deception, false pretenses, coercion, harassment,  
14 duress, and threats, and exploiters are often trusted  
15 individuals like family members, caregivers, neighbors, friends,  
16 acquaintances, attorneys, bank employees, pastors, doctors, or  
17 nurses.



1           The legislature further finds that the rate of financial  
 2 exploitation of vulnerable adults is high, yet vastly under-  
 3 reported. For example, one in twenty older adults indicate some  
 4 form of perceived financial mistreatment occurring in the recent  
 5 past, but only one in forty-four cases of elder financial abuse  
 6 is reported.

7           The purpose of this Act is to provide additional protection  
 8 to vulnerable adults by making the financial exploitation of a  
 9 vulnerable adult by a caregiver a class A felony.

10           SECTION 2. Chapter 708, Hawaii Revised Statutes, is  
 11 amended by adding a new section to part IV to be appropriately  
 12 designated and to read as follows:

13           "§708-     Financial exploitation of a vulnerable adult;  
 14 caregivers. (1) A caregiver commits the offense of financial  
 15 exploitation of a vulnerable adult if the caregiver  
 16 intentionally or knowingly:

17           (a) Takes, withholds, misappropriates, or uses a  
 18 vulnerable adult's money, real property, or personal  
 19 property without authorization;

20           (b) Breaches a fiduciary duty to the vulnerable adult,  
 21 such as misusing a power of attorney or guardianship



1 privileges, resulting in the unauthorized  
2 appropriation, sale, or transfer of property;  
3 (c) Takes the vulnerable adult's personal assets without  
4 authorization;  
5 (d) Misappropriates or misuses any money belonging to the  
6 vulnerable adult from a personal or joint account;  
7 (e) Fails to effectively use a vulnerable adult's income  
8 and assets for the necessities required for the  
9 vulnerable adult's support and maintenance, if the  
10 caregiver has a duty to expend income and assets on  
11 behalf of the vulnerable adult for such purposes; or  
12 (f) Uses coercion, manipulation, threats, intimidation,  
13 misrepresentation, or undue influence to take,  
14 appropriate, sell, transfer, or withhold a vulnerable  
15 adult's money, assets, real property, or personal  
16 property;  
17 provided that the total value of the money, assets, or property  
18 taken or used exceeds \$50,000.

19 (2) Financial exploitation of a vulnerable adult is a  
20 class A felony.

21 (3) For the purposes of this section:



1       "Caregiver" means any person who has knowingly and  
2 willingly assumed, on a part-time or full-time basis, the care,  
3 supervision, or physical control of, or who has a legal or  
4 contractual duty to care for the health, safety, and welfare of  
5 a vulnerable adult.

6       "Vulnerable adult" means a person eighteen years of age or  
7 older who, because of mental, developmental, or physical  
8 impairment, is unable to: communicate or make responsible  
9 decisions to manage the person's own care or resources; carry  
10 out or arrange for essential activities of daily living; or  
11 protect oneself from financial exploitation, as defined in  
12 section 346-222."

13       SECTION 3. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16       SECTION 4. New statutory material is underscored.

17       SECTION 5. This Act shall take effect on July 1, 2019.

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**Report Title:**

Penal Code; Caregivers; Financial Exploitation; Elder Abuse;  
Vulnerable Adults

**Description:**

Makes financial exploitation of a vulnerable adult by a  
caregiver a Class A felony. (SD1)

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not legislation or evidence of legislative intent.*

