

JAN 18 2019

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 is a fast-growing form of elder abuse. Financial
3 exploitation occurs when a person misuses or takes the assets of
4 an elderly victim for that person's own personal benefit. This
5 frequently occurs without the explicit knowledge or consent of
6 the elderly victim and deprives the elderly victim of vital
7 financial resources. Assets are commonly taken via forms of
8 deception, false pretenses, coercion, harassment, duress, and
9 threats, and exploiters are often trusted individuals like
10 family members, caregivers, neighbors, friends, acquaintances,
11 attorneys, bank employees, pastors, doctors, and nurses.

12 The legislature further finds that, according to the
13 National Adult Protective Services Association, recent research
14 indicates that elder financial exploitation is widespread and
15 sometimes even deadly. The rate of financial exploitation is
16 high, yet vastly under-reported. One in twenty older adults
17 indicate some form of perceived financial mistreatment occurring



1 in the recent past, but only one in forty-four cases of elder
2 financial abuse is reported.

3 The purpose of this Act is to provide additional protection
4 to the elderly by making the financial exploitation of an elder
5 by a caregiver a class A felony.

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

9 **"§708- Financial exploitation of an elder; caregivers.**

10 (1) A caregiver commits the offense of financial exploitation
11 of an elder if the caregiver intentionally or knowingly:

12 (a) Takes, withholds, misappropriates, or uses an elder's
13 money, real property, or personal property without
14 authorization;

15 (b) Breaches a fiduciary duty to the elder, resulting in
16 the unauthorized appropriation, sale, or transfer of
17 property;

18 (c) Takes the elder's personal assets without
19 authorization;



1 (d) Misappropriates, misuses, or transfers without
2 authorization any money belonging to the elder from a
3 personal or joint account; or

4 (e) Uses coercion, manipulation, threats, intimidation,
5 misrepresentation, or undue influence to take,
6 appropriate, sell, transfer, or withhold an elder's
7 money, assets, real property, or personal property;
8 provided that the total value of the money, assets, or property
9 taken or used exceeds \$50,000.

10 (2) Financial exploitation of an elder is a class A
11 felony.

12 (3) For the purposes of this section:
13 "Caregiver" means any person who has undertaken the
14 temporary or permanent care, custody, or physical control or
15 supervision of, or who has a legal or contractual duty to care
16 for the health, safety, and welfare of, an elder.

17 "Elder" means a person who is sixty years of age or older."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 4. New statutory material is underscored.



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

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INTRODUCED BY: Resaly H Bob

Ernie J. Inouye

Naama Thiel

Kurt Ferrell

[Signature]

James E. H.

Mike Hubbard

[Signature]

S.B. NO. 531

Report Title:

Penal Code; Caregivers; Financial Exploitation; Elder Abuse

Description:

Makes financial exploitation of an elder by a caregiver a Class A felony.

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