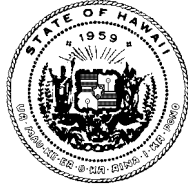


DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 6, 2020

TO: The Honorable Senator Russell E. Ruderman, Chair
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2949 - RELATING TO FINANCIAL EXPLOITATION**

Hearing: February 7, 2020, 3:00 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill, offers comments, and suggests an amendment.

PURPOSE: The purposes of this bill authorizes a civil cause of action by a vulnerable adult for financial exploitation of a vulnerable adult. Allows attorney's fees and costs and punitive damages. Establishes degrees and classes of felonies for financial exploitation of an elderly person or disabled adult. Establishes a presumption of financial exploitation.

DHS appreciates the Legislature's recognition of the serious injustice of financial exploitation of Hawaii's elderly and disabled adults which is increasingly prevalent in communities and within families.

We support the intent of the new section adding a civil cause of action by private litigants. However, we respectfully request the new section be added to Chapter 663, Tort Actions, to make certain and clear that the cause of action is available to private litigants and will not be the responsibility of DHS to commence such action. If placed in Chapter 346, we are concerned that the new section may be interpreted as an agency function when

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responding to reports of abuse or neglect of a vulnerable adult.

DHS supports the new amendments to establish classes of felonies for financial exploitation of elderly or disabled adults.

Thank you for the opportunity to provide testimony on this bill.



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Senate Committee on Human Services
Tuesday, February 4, 2020, 9:30 am
Hawaii State Capitol, Room 430

In Support of SB 2949, Relating to Financial Exploitation

To: The Honorable Russell Ruderman, Chair
The Honorable Karl Rhoads, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 51 Hawaii credit unions, representing over 800,000 credit union members across the state. We offer the following testimony in support of SB 2949 Relating to Financial Exploitation

This bill would allow for a civil cause of action against someone who has committed financial exploitation of a vulnerable person. Unfortunately, financial elder abuse is a crime that occurs often, and is often difficult to uncover. Providing an avenue for elderly and disabled people to recover funds through civil litigation would be a step in the right direction. Hawaii's credit unions have long worked with law enforcement to investigate and prosecute these types of crimes. With our elder population growing, this bill will further help protect our elderly members and their assets.

Thank you for the opportunity to provide comments on this issue.

SB-2949

Submitted on: 2/3/2020 2:11:03 PM

Testimony for HMS on 2/7/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

STRONG SUPPORT!!!

SB-2949

Submitted on: 2/3/2020 3:42:32 PM

Testimony for HMS on 2/7/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Guy Yatsushiro	Individual	Support	No

Comments:

SB-2949

Submitted on: 2/5/2020 6:18:08 PM

Testimony for HMS on 2/7/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James H Pietsch	Individual	Support	No

Comments:

Chair Karl Roads and Vice Chair Russell E. Ruderman, thank you for the opportunity to provide Testimony on SB 2949.

My name is James H. Pietsch and I am providing testimony on my own behalf and not on behalf of the University of Hawai'i. I strongly support SB 2949. Financial exploitation of older persons in our community is increasing and victims, especially vulnerable victims, have limited remedies they can pursue, and the police are often reluctant to charge a perpetrator of financial exploitation under the current law, especially regarding violations of fiduciary duties. I receive many calls in the University of Hawai'i Elder Law from both victims and family members regarding financial exploitation and it is frustrating that the legal system does not have adequate tools to address this growing problem. SB 2949 would provide additional legal tools. Among other provisions, it gives "vulnerable adults" a civil cause of action for damages, punitive damages and attorney fees and costs when they have been financially exploited, it includes provisions regarding violations of fiduciary duties to elderly or disabled adults by guardians, trustees and agents under powers of attorney for misappropriating, misusing, or transferring without authorization money belonging to an elderly person or disabled adult from an account in which the elderly person or disabled adult placed the funds, owned the funds, and was the sole contributor or payee of the funds before the misappropriation, misuse, or unauthorized transfer and it creates a presumption of exploitation independent of capacity issues with respect to older persons under precise criteria. The state of Florida has these provisions in its laws, and they appear to be working. It is time for our state to enact similar legislation to protect our fast growing vulnerable population from financial exploitation.

Again, thank you for the opportunity to provide my testimony.