
A BILL FOR AN ACT

RELATING TO SENTENCING OF REPEAT OFFENDERS.

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

1 SECTION 1. Insurance fraud is reported to cost every
2 United States household an average of \$500 per year. In Hawaii,
3 the cost of motor vehicle insurance fraud alone has been
4 estimated to be over \$164 annually per household. In
5 recognition of the impact that fraud has on the cost of motor
6 vehicle insurance, Act 251, Session Laws of Hawaii 1997, was
7 enacted to establish an insurance fraud investigations unit, and
8 motor vehicle insurance fraud violations and penalties. Act 155
9 and Act 275, Session Laws of Hawaii 1998, were enacted the
10 following year to clarify the penalties for the offense of motor
11 vehicle insurance fraud and enhance and clarify the powers and
12 purpose of the insurance fraud investigations unit to combat
13 motor vehicle insurance fraud.

14 Insurance fraud also has increasingly affected costs within
15 the health insurance industry. Industry health care fraud
16 losses are estimated at three to fourteen per cent of the
17 \$1,200,000,000,000 in annual national health care costs. This
18 is equivalent to approximately \$36,000,000,000 to



1 \$144,000,000,000 annually. In Hawaii, based on the conservative
2 estimate that insurance fraud amounts to three per cent of
3 annual Hawaii health care costs, health insurance fraud causes
4 losses that exceed \$60,000,000 annually. Because insurance
5 fraud is a growing problem in the area of health insurance, the
6 legislature enacted health insurance fraud provisions in Act
7 125, Session Laws of Hawaii 2003. Similar fraud provisions are
8 in place for workers' compensation insurance.

9 Nationally, many repeat offender criminals and organized
10 crime entities are now engaging in various insurance fraud
11 schemes as a way to generate quick and safe money to fund other
12 criminal endeavors. More and more criminals are turning to
13 white collar crimes such as insurance fraud and identity theft
14 as ways to defraud and steal from both the government and the
15 general public.

16 In Hawaii, insurance fraud is not listed as one of the
17 class C felony crimes that is covered as one of the repeat
18 offender offenses. Knowing that many criminals and criminal
19 entities use insurance fraud as a way to fund often more
20 dangerous or violent crimes and that many white collar criminals
21 see this as a crime where the punishment is minimal, action



1 should be taken to toughen the penalties for those who engage in
2 repeated attempts to commit insurance fraud.

3 The purpose of this Act is to amend the sentencing of
4 repeat offenders to include the insurance fraud penalty
5 provisions under chapters 386, 431, 432, and 432D, Hawaii
6 Revised Statutes.

7 SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

9 "(1) Notwithstanding section 706-669 and any other law to
10 the contrary, any person convicted of murder in the second
11 degree, any class A felony, any class B felony, or any of the
12 following class C felonies: section 188-23 relating to
13 possession or use of explosives, electrofishing devices, and
14 poisonous substances in state waters; section 386-98 relating to
15 fraud violations and penalties; section 431:10A-131 relating to
16 insurance fraud; section 431:10C-307.7 relating to insurance
17 fraud; section 432:1-106 relating to insurance fraud; section
18 432D-18.5 relating to insurance fraud; section 707-703 relating
19 to negligent homicide in the first degree; section 707-711
20 relating to assault in the second degree; section 707-713
21 relating to reckless endangering in the first degree; section
22 707-716 relating to terroristic threatening in the first degree;



1 section 707-721 relating to unlawful imprisonment in the first
2 degree; section 707-732 relating to sexual assault or rape in
3 the third degree; section 707-735 relating to sodomy in the
4 third degree; section 707-736 relating to sexual abuse in the
5 first degree; section 707-751 relating to promoting child abuse
6 in the second degree; section 707-766 relating to extortion in
7 the second degree; section 708-811 relating to burglary in the
8 second degree; section 708-821 relating to criminal property
9 damage in the second degree; section 708-831 relating to theft
10 in the first degree as amended by Act 68, Session Laws of Hawaii
11 1981; section 708-831 relating to theft in the second degree;
12 section 708-835.5 relating to theft of livestock; section
13 708-836 relating to unauthorized control of propelled vehicle;
14 section 708-852 relating to forgery in the second degree;
15 section 708-854 relating to criminal possession of a forgery
16 device; section 708-875 relating to trademark counterfeiting;
17 section 710-1071 relating to intimidating a witness; section
18 711-1103 relating to riot; section 712-1203 relating to
19 promoting prostitution in the second degree; section 712-1221
20 relating to gambling in the first degree; section 712-1224
21 relating to possession of gambling records in the first degree;
22 section 712-1243 relating to promoting a dangerous drug in the



1 third degree; section 712-1247 relating to promoting a
2 detrimental drug in the first degree; section 134-7 relating to
3 ownership or possession of firearms or ammunition by persons
4 convicted of certain crimes; section 134-8 relating to
5 ownership, etc., of prohibited weapons; section 134-9 relating
6 to permits to carry, or who is convicted of attempting to commit
7 murder in the second degree, any class A felony, any class B
8 felony, or any of the class C felony offenses enumerated above
9 and who has a prior conviction or prior convictions for the
10 following felonies, including an attempt to commit the same:
11 murder, murder in the first or second degree, a class A felony,
12 a class B felony, any of the class C felony offenses enumerated
13 above, or any felony conviction of another jurisdiction shall be
14 sentenced to a mandatory minimum period of imprisonment without
15 possibility of parole during such period as follows:

- 16 (a) One prior felony conviction:
- 17 (i) Where the instant conviction is for murder in the
18 second degree or attempted murder in the second
19 degree-ten years;
- 20 (ii) Where the instant conviction is for a class A
21 felony-six years, eight months;



- 1 (iii) Where the instant conviction is for a class B
- 2 felony-three years, four months; and
- 3 (iv) Where the instant conviction is for a class C
- 4 felony offense enumerated above-one year, eight
- 5 months;
- 6 (b) Two prior felony convictions:
- 7 (i) Where the instant conviction is for murder in the
- 8 second degree or attempted murder in the second
- 9 degree-twenty years;
- 10 (ii) Where the instant conviction is for a class A
- 11 felony-thirteen years, four months;
- 12 (iii) Where the instant conviction is for a class B
- 13 felony-six years, eight months; and
- 14 (iv) Where the instant conviction is for a class C
- 15 felony offense enumerated above-three years, four
- 16 months;
- 17 and
- 18 (c) Three or more prior felony convictions:
- 19 (i) Where the instant conviction is for murder in the
- 20 second degree or attempted murder in the second
- 21 degree-thirty years;

- 1 (ii) Where the instant conviction is for a class A
- 2 felony-twenty years;
- 3 (iii) Where the instant conviction is for a class B
- 4 felony-ten years; and
- 5 (iv) Where the instant conviction is for a class C
- 6 felony offense enumerated above-five years."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2099.

HB649, SD1

Report Title:

Repeat Offender Sentencing; Insurance Fraud

Description:

Includes felony insurance fraud among the offenses subject to repeat offender sentencing. Effective date July 1, 2099. (SD1)

