

# S.B. NO. 2798

JAN 23 2014

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## A BILL FOR AN ACT

RELATING TO MEDICAL ASSISTANCE FRAUD.

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

1           SECTION 1. Section 346-43.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+]§346-43.5[+]~~ **Medical assistance** ~~[frauds,]~~ **fraud,**  
4 **penalties.** ~~[It is unlawful for any person to]~~ (a) A person  
5 commits the offense of medical assistance fraud if:

6           (1) The person knowingly and willfully ~~[make]~~ makes or  
7           ~~[eause]~~ causes to be made to the medical assistance  
8           program any false statement or representation of a  
9           material fact in any application for any benefit or  
10           payment for furnishing services or supplies, or for  
11           the purpose of obtaining greater compensation than  
12           that to which the person is legally entitled, or for  
13           the purpose of obtaining authorization for furnishing  
14           services or supplies. ~~[Violation of this section~~  
15           ~~shall be a class C felony. The enforcement of~~  
16           ~~remedies provided under this section are not exclusive~~  
17           ~~and shall not preclude the use of any other criminal~~  
18           ~~or civil remedy.]~~

1       (2) The person knowingly makes or causes to be made any  
2       false statement or representation of a material fact  
3       in any application for any medical assistance benefit  
4       or renewal of any medical assistance benefit, or in  
5       any statement, document, or record, in written,  
6       printed, or electronic form, in support of, or  
7       connected with, that application for or renewal of  
8       medical assistance benefits.

9       (b) A person convicted under subsection (a)(2) shall pay  
10      restitution equivalent to the amount of medical assistance  
11      benefits paid by the State on behalf of that person.

12       (c) For purposes of this section, the term "medical  
13      assistance benefit" means health care coverage or services,  
14      including medical, behavioral health, dental or long-term care  
15      services, provided to or paid for on behalf of a person by the  
16      State, regardless of source of funding. Payment for medical  
17      assistance benefits may be made through capitated payments,  
18      insurance premiums, co-payments, any payments made by the State  
19      to that person's health care providers, and any other payments  
20      made by the State on behalf of the person for health care  
21      coverage or services.

22       (d) The offense of medical assistance fraud is a class C  
23      felony.

1        (e) The remedies provided under this section are not  
2 exclusive and shall not preclude the use of any other criminal  
3 or civil remedy."

4        SECTION 2. Section 701-108, Hawaii Revised Statutes, is  
5 amended by amending subsection (3) to read as follows:

6        "(3) If the period prescribed in subsection (2) has  
7 expired, a prosecution may nevertheless be commenced for:

8        (a) Any offense an element of which is [~~either~~] fraud,  
9        deception[~~7~~] as defined in section 708-800, or a  
10        breach of fiduciary obligation, or the offense of  
11        medical assistance fraud under section 346-43.5,  
12        within three years after discovery of the offense by  
13        an aggrieved party or by a person who has a legal duty  
14        to represent an aggrieved party and who is oneself not  
15        a party to the offense, but in no case shall this  
16        provision extend the period of limitation by more than  
17        six years from the expiration of the period of  
18        limitation prescribed in subsection (2);

19        (b) Any offense based on misconduct in office by a public  
20        officer or employee at any time when the defendant is  
21        in public office or employment or within two years  
22        thereafter, but in no case shall this provision extend  
23        the period of limitation by more than three years from

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1 the expiration of the period of limitation prescribed  
2 in subsection (2); and

3 (c) Any felony offense involving evidence containing  
4 deoxyribonucleic acid from the offender, if a test  
5 confirming the presence of deoxyribonucleic acid is  
6 performed prior to expiration of the period of  
7 limitation prescribed in subsection (2), but in no  
8 case shall this provision extend the period of  
9 limitation by more than ten years from the expiration  
10 of the period of limitation prescribed in subsection  
11 (2)."

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


15 SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act, upon its approval, shall take effect  
18 on July 1, 2014.

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INTRODUCED BY: 

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BY REQUEST

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**Report Title:**

Medical Assistance Fraud

**Description:**

Amends section 346-43.5, Hawaii Revised Statutes, to clarify that fraudulently applying for or renewing medical assistance benefits is a class C felony, and to clarify the amount of restitution when the fraud is committed by a recipient of medical assistance benefits. Amends the statute of limitations provision under section 701-108, Hawaii Revised Statutes, to include the offense of medical assistance fraud with other felony offenses involving fraud or deception.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE FRAUD.

PURPOSE: To clarify that fraudulently applying for or renewing an application for medical assistance benefits is a class C felony, clarify the amount of restitution when the fraud is committed by a recipient of medical assistance benefits, define "medical assistance benefit," and amend the statute of limitations provision under section 701-108, Hawaii Revised Statutes (HRS), to include the offense of medical assistance fraud with other felony offenses involving fraud or deception.

MEANS: Amend sections 346-43.5 and 701-108(3), HRS.

JUSTIFICATION: The State is obligated under federal and state law to ensure that medical assistance benefits are provided only to eligible individuals, and is required to refer cases of suspected medical assistance fraud to the appropriate law enforcement agency. 45 C.F.R. § 455.15. Section 346-43.5, HRS, *Medical assistance frauds, penalties*, lacks certain detail that would assist law enforcement officials in prosecuting medical assistance recipient fraud. This bill clarifies this statute by separating out medical assistance recipient fraud into a new paragraph, defining "medical assistance benefit," and addressing restitution in recipient fraud cases.

This bill also amends the statute of limitations law under section 701-108 to include this offense with other offenses involving fraud or deception

which have extended statute of limitations periods. Because this offense involves misrepresentations and deception, it often goes undetected for long periods of time. An extended statute of limitations period is necessary.

Impact on the public: This bill will ensure that public funds are not misappropriated for the benefit of individuals who are not eligible for medical assistance benefits.

Impact on the department and other agencies: The bill allows the Department of the Attorney General and county prosecutors' offices to prosecute cases of medical assistance recipient fraud within three years after the discovery of the fraud, and seek restitution.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	Department of the Attorney General, county prosecuting attorneys.
EFFECTIVE DATE:	July 1, 2014.