

ACT 171

H.B. NO. 2537

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that using domestic abuse status as a rating factor denies at-risk individuals the benefits of insurance and that the fear of losing coverage may discourage some people from seeking help. If the ability to obtain and maintain health insurance coverage for at-risk individuals and their dependents is denied, they may feel the only alternative is to stay in an abusive relationship. Knowing that insurance coverage may be lost or denied if an insurer learns of an abusive situation can lead abuse victims to avoid seeking the medical, legal, and counseling support services they desperately need.

In 1995, six states (California, Connecticut, Delaware, Florida, Iowa, and Massachusetts) moved to preserve insurance coverage for individuals who have been, are, or are at-risk of being abused in a domestic relationship. The laws resulted from documentation and recognition that denying, cancelling, restricting, or increasing premium rates for life and health insurance coverage had become a standard insurance industry practice.

In 1996, anti-discrimination bills were introduced in at least seventeen states, most with provisions prohibiting use of domestic violence status as rating criteria. At the end of the year, ten of those states had enacted laws.

The purpose of this Act is to preserve insurance coverage for or prevent discrimination against individuals who have been or are at risk of domestic abuse.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part II of article 10 to be appropriately designated and to read as follows:

“§431:10- Policies relating to domestic abuse cases. (a) No insurer shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the applicant or insured person is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent an insurer from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any insured. Such an exclusion, however, shall not apply to deny an insured's otherwise-covered property loss if:

- (1) The property loss is caused by an act of domestic abuse by another insured under the policy;
- (2) The insured claiming property loss files a police report and cooperates with any law enforcement investigation relating to the act of domestic abuse; and
- (3) The insured claiming property loss did not cooperate in or contribute to the creation of the property loss.

Payment by the insurer to an insured may be limited to the person's insurable interest in the property less payments made to a mortgagee or other party with a legal secured interest in the property. An insurer making payment to an insured under this section has all rights of subrogation to recover against the perpetrator of the act that caused the loss.

(d) Nothing in this section prohibits an insurer from investigating a claim and complying with chapter 431.

(e) As used in this section, "domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member."

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

"§432:1- Policies relating to domestic abuse cases. (a) No mutual benefit society shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the member or prospective member is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a mutual benefit society from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any member of the society.

(d) Nothing in this section prohibits a mutual benefit society from investigating a claim and complying with chapter 432.

(e) As used in this section, "domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or

- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 4. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

“§432:2- Policies relating to domestic abuse cases. (a) No fraternal benefit society shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the member or prospective member is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a fraternal benefit society from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any benefit member.

(d) Nothing in this section prohibits an fraternal benefit society from investigating a claim and complying with chapter 431.

(e) As used in this section, “domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 5. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§432D- Policies relating to domestic abuse cases. (a) No health maintenance organization shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the applicant or enrollee is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a health maintenance organization from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any enrollee.

(d) Nothing in this section prohibits a health maintenance organization from investigating a claim and complying with chapter 432D.

(e) As used in this section, “domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;

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- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 6. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

Note

- 1. Edited pursuant to HRS §23G-16.5.