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# 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 healthcare fraud losses  
16 are estimated to be as much as fourteen per cent of the  
17 \$1,200,000,000,000 in annual national healthcare costs. This is  
18 equivalent to approximately \$36,000,000,000 to \$144,000,000,000



1 annually. In Hawaii, based on the conservative estimate that  
2 insurance fraud amounts to three per cent of annual Hawaii  
3 healthcare costs, health insurance fraud causes losses that  
4 exceed \$60,000,000 annually. Because insurance fraud is a  
5 growing problem in the area of health insurance, the legislature  
6 enacted health insurance fraud provisions in Act 125, Session  
7 Laws of Hawaii 2003. Similar fraud provisions are in place for  
8 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 crime such as insurance fraud and identity theft as  
14 a way of defrauding and stealing from both the government and  
15 the 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 more dangerous or  
20 violent crimes and that many white collar criminals see this as  
21 a crime where the punishment is minimal, action should be taken  
22 to toughen the penalties for those who engage in repeated



1 attempts to commit insurance fraud.

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

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

8 "(1) Notwithstanding section 706-669 and any other law to  
9 the contrary, any person convicted of murder in the second  
10 degree, any class A felony, any class B felony, or any of the  
11 following class C felonies: section 188-23 relating to  
12 possession or use of explosives, electrofishing devices, and  
13 poisonous substances in state waters; section 386-98(d)(1)  
14 relating to fraud violations and penalties; section 431:10A-  
15 131(b)(2) relating to insurance fraud; section 431:10C-  
16 307.7(b)(2) relating to insurance fraud; section 432:1-106(b)(2)  
17 relating to insurance fraud; section 432D-18.5(b)(2) relating to  
18 insurance fraud; section 707-703 relating to negligent homicide  
19 in the second degree; section 707-711 relating to assault in the  
20 second degree; section 707-713 relating to reckless endangering  
21 in the first degree; section 707-716 relating to terroristic  
22 threatening in the first degree; section 707-721 relating to



1 unlawful imprisonment in the first degree; section 707-732  
2 relating to sexual assault or rape in the third degree; section  
3 707-752 relating to promoting child abuse in the third degree;  
4 section 707-757 relating to electronic enticement of a child in  
5 the second degree; section 707-766 relating to extortion in the  
6 second degree; section 708-811 relating to burglary in the  
7 second degree; section 708-821 relating to criminal property  
8 damage in the second degree; section 708-831 relating to theft  
9 in the first degree as amended by Act 68, Session Laws of Hawaii  
10 1981; section 708-831 relating to theft in the second degree;  
11 section 708-835.5 relating to theft of livestock; section 708-  
12 836 relating to unauthorized control of propelled vehicle;  
13 [+]section[+] 708-839.8 relating to identity theft in the third  
14 degree; [+]section[+] 708-839.55 relating to unauthorized  
15 possession of confidential personal information; section 708-852  
16 relating to forgery in the second degree; section 708-854  
17 relating to criminal possession of a forgery device; section  
18 708-875 relating to trademark counterfeiting; section 710-1071  
19 relating to intimidating a witness; section 711-1103 relating to  
20 riot; section 712-1203 relating to promoting prostitution in the  
21 second degree; section 712-1221 relating to gambling in the  
22 first degree; section 712-1224 relating to possession of



1 gambling records in the first degree; section 712-1243 relating  
2 to promoting a dangerous drug in the third degree; section 712-  
3 1247 relating to promoting a detrimental drug in the first  
4 degree; section 134-7 relating to ownership or possession of  
5 firearms or ammunition by persons convicted of certain crimes;  
6 section 134-8 relating to ownership, etc., of prohibited  
7 weapons; section 134-9 relating to permits to carry, or who is  
8 convicted of attempting to commit murder in the second degree,  
9 any class A felony, any class B felony, or any of the class C  
10 felony offenses enumerated above and who has a prior conviction  
11 or prior convictions for the following felonies, including an  
12 attempt to commit the same: murder, murder in the first or  
13 second degree, a class A felony, a class B felony, any of the  
14 class C felony offenses enumerated above, or any felony  
15 conviction of another jurisdiction, shall be sentenced to a  
16 mandatory minimum period of imprisonment without possibility of  
17 parole during such period as follows:

18 (a) One prior felony conviction:

19 (i) Where the instant conviction is for murder  
20 in the second degree or attempted murder in  
21 the second degree—ten years;



1           (ii) Where the instant conviction is for a class  
2           A felony—six years, eight months;

3           (iii) Where the instant conviction is for a class  
4           B felony—three years, four months;

5           (iv) Where the instant conviction is for a class  
6           C felony offense enumerated above—one year,  
7           eight months;

8       (b) Two prior felony convictions:

9           (i) Where the instant conviction is for murder  
10           in the second degree or attempted murder in  
11           the second degree—twenty years;

12           (ii) Where the instant conviction is for a class  
13           A felony—thirteen years, four months;

14           (iii) Where the instant conviction is for a class  
15           B felony—six years, eight months;

16           (iv) Where the instant conviction is for a class  
17           C felony offense enumerated above—three  
18           years, four months;

19       (c) Three or more prior felony convictions:

20           (i) Where the instant conviction is for murder  
21           in the second degree or attempted murder in  
22           the second degree—thirty years;



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

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

10          SECTION 4. This Act shall take effect on January 1, 2112.



**Report Title:**

Insurance Fraud; Sentencing

**Description:**

Includes felony insurance fraud in motor vehicle insurance, private health insurance, mutual benefit health insurance, health maintenance organization health insurance, and worker's compensation insurance lines among the offenses subject to repeat felony offender sentencing. (HB1328 HD2)

