

ACT 94

H.B. NO. 900

A Bill for an Act Relating to Medical Assistance Fraud.

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

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

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

- (1) The person knowingly [and wilfully make] makes or [cause] causes to be made to the medical assistance program any false statement or representation of a material fact in any application for any benefit or payment for furnishing services or supplies, or for the purpose of obtaining greater compensation than that to which the person is legally entitled, or for the purpose of obtaining authorization for furnishing services or supplies[. Violation of this section shall be a class C felony. The enforcement of remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.]; or
- (2) The person knowingly makes or causes to be made any false statement or representation of a material fact in any application for any medical assistance benefit or renewal of any medical assistance benefit, or in any statement, document, or record, in written, printed, or electronic form, in support of, or connected with, that application for or renewal of medical assistance benefits.

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

(c) For purposes of this section, the term “medical assistance benefit” means health care coverage or services, including medical, behavioral health, dental, or long-term care services, provided to or paid for on behalf of a person by the State, regardless of source of funding. Payment for medical assistance benefits may be made through capitated payments, insurance premiums, co-payments, any payments made by the State to that person’s health care providers, and any other payments made by the State on behalf of the person for health care coverage or services.

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

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

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

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

- (a) Any offense an element of which is ~~[either] fraud, deception[.];~~ as defined in section 708-800, or a breach of fiduciary obligation or the offense of medical assistance fraud under section 346-43.5, within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is oneself not a party to the offense, but in no case shall this provision extend the period of limitation by more than six years from the expiration of the period of limitation prescribed in subsection (2);
- (b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years from the expiration of the period of limitation prescribed in subsection (2); and

- (c) Any felony offense involving evidence containing deoxyribonucleic acid from the offender, if a test confirming the presence of deoxyribonucleic acid is performed prior to expiration of the period of limitation prescribed in subsection (2), but in no case shall this provision extend the period of limitation by more than ten years from the expiration of the period of limitation prescribed in subsection (2).”

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

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

SECTION 5. This Act shall take effect upon its approval.

(Approved June 21, 2016.)