

HOUSE BILL NO. 5195

October 24, 2023, Introduced by Reps. McFall, MacDonell, Wilson, Brenda Carter, Harris, Scott, Bezotte, Breen, Coleman, Stone, O'Neal, Young, Neeley, Hope, Dievendorf, Haadsma, Rheingans, DeBoer, Brabec, Tyrone Carter, Martus, Fitzgerald, Aragona and Aiyash and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4511 (MCL 500.4511), as added by 1995 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4511. ~~(1) A person who commits a fraudulent insurance act~~
2 ~~under section 4503 is guilty of a felony punishable by imprisonment~~
3 ~~for not more than 4 years or a fine of not more than \$50,000.00, or~~
4 ~~both, and shall be ordered to pay restitution as provided in~~
5 ~~section 1a of chapter IX of the code of criminal procedure, Act No.~~
6 ~~175 of the Public Acts of 1927, being section 769.1a of the~~
7 ~~Michigan Compiled Laws, and in the crime victim's rights act, Act~~

1 ~~No. 87 of the Public Acts of 1985, being sections 780.751 to~~
2 ~~780.834 of the Michigan Compiled Laws.~~

3 ~~(2) A person who enters into an agreement or conspiracy to~~
4 ~~commit a fraudulent insurance act under section 4503 is guilty of a~~
5 ~~felony, punishable by imprisonment for not more than 10 years or by~~
6 ~~a fine of not more than \$50,000.00, or both, and shall be ordered~~
7 ~~to pay restitution as provided in section 1a of chapter IX of the~~
8 ~~code of criminal procedure, Act No. 175 of the Public Acts of 1927,~~
9 ~~being section 769.1a of the Michigan Compiled Laws, and in the~~
10 ~~crime victim's rights act, Act No. 87 of the Public Acts of 1985,~~
11 ~~being sections 780.751 to 780.834 of the Michigan Compiled Laws.~~

12 ~~(3) If the court finds a practitioner or insurer responsible~~
13 ~~for or guilty of a fraudulent insurance act under section 4503, the~~
14 ~~court shall notify the appropriate licensing authority in this~~
15 ~~state of the adjudication.~~

16 **(1) If any of the following apply and subsections (2) to (5)**
17 **do not apply, a person who commits a fraudulent insurance act under**
18 **section 4503 that involves a fraudulent claim is guilty of a**
19 **misdemeanor punishable by imprisonment for not more than 1 year or**
20 **a fine of not more than \$2,000.00 or 3 times the amount of the**
21 **fraudulent claim or claims, whichever is greater, or both**
22 **imprisonment and a fine:**

23 **(a) The amount of the fraudulent claim or claims is less than**
24 **\$1,000.00.**

25 **(b) The fraudulent insurance act or acts involve 1 or more but**
26 **less than 5 fraudulent claims.**

27 **(2) If any of the following apply and subsections (3) to (5)**
28 **do not apply, a person who commits a fraudulent insurance act under**
29 **section 4503 that involves a fraudulent claim is guilty of a felony**

1 punishable by imprisonment for not more than 5 years or a fine of
2 not more than \$10,000.00 or 3 times the amount of the fraudulent
3 claim or claims, whichever is greater, or both imprisonment and a
4 fine:

5 (a) The amount of the fraudulent claim or claims is \$1,000.00
6 or more but less than \$20,000.00.

7 (b) The fraudulent insurance act or acts involve 5 or more but
8 less than 20 fraudulent claims.

9 (c) Any of the circumstances in subsection (1) apply and the
10 person has 1 or more prior convictions for committing or attempting
11 to commit an offense described in this section.

12 (d) Any of the circumstances in subsection (1) apply and the
13 person entered into an agreement or conspiracy to commit a
14 fraudulent insurance act under section 4503.

15 (3) If any of the following apply and subsections (4) and (5)
16 do not apply, a person who commits a fraudulent insurance act under
17 section 4503 that involves a fraudulent claim is guilty of a felony
18 punishable by imprisonment for not more than 10 years or a fine of
19 not more than \$15,000.00 or 3 times the amount of the fraudulent
20 claim or claims, whichever is greater, or both imprisonment and a
21 fine:

22 (a) The amount of the fraudulent claim or claims is \$20,000.00
23 or more but less than \$50,000.00.

24 (b) The fraudulent insurance act or acts involve 20 or more
25 but less than 50 fraudulent claims.

26 (c) Any of the circumstances in subsection (1) or (2) apply
27 and the person has 2 or more prior convictions for committing or
28 attempting to commit an offense described in this section.

29 (d) Any of the circumstances in subsection (2) apply and the

1 person entered into an agreement or conspiracy to commit a
2 fraudulent insurance act under section 4503.

3 (4) If any of the following apply and subsection (5) does not
4 apply, a person who commits a fraudulent insurance act under
5 section 4503 that involves a fraudulent claim is guilty of a felony
6 punishable by imprisonment for not more than 15 years or a fine of
7 not more than \$25,000.00 or 3 times the amount of the fraudulent
8 claim or claims, whichever is greater, or both imprisonment and a
9 fine:

10 (a) The amount of the fraudulent claim or claims is \$50,000.00
11 or more but less than \$100,000.00.

12 (b) The fraudulent insurance act or acts involve 50 or more
13 but less than 100 fraudulent claims.

14 (c) Any of the circumstances in subsection (3) apply and the
15 person entered into an agreement or conspiracy to commit a
16 fraudulent insurance act under section 4503.

17 (5) If any of the following apply, a person who commits a
18 fraudulent insurance act under section 4503 that involves a
19 fraudulent claim is guilty of a felony punishable by imprisonment
20 for not more than 20 years or a fine of not more than \$50,000.00 or
21 3 times the amount of the fraudulent claim or claims, whichever is
22 greater, or both imprisonment and a fine:

23 (a) The amount of the fraudulent claim or claims is
24 \$100,000.00 or more.

25 (b) The fraudulent insurance act or acts involve 100 or more
26 fraudulent claims.

27 (c) Any of the circumstances in subsection (4) apply and the
28 person entered into an agreement or conspiracy to commit a
29 fraudulent insurance act under section 4503.

1 (6) A person who is guilty of a misdemeanor or felony as
2 described in this section must be ordered to pay restitution as
3 provided in section 1a of chapter IX of the code of criminal
4 procedure, 1927 PA 175, MCL 769.1a, and in the William Van
5 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
6 780.834.

7 (7) Any fraudulent insurance claims that are made within any
8 12-month period pursuant to a scheme or course of conduct may be
9 aggregated to determine the total amount or number of the
10 fraudulent claims involved.

11 (8) If the prosecuting attorney intends to seek an enhanced
12 sentence under this section based on the defendant having 1 or more
13 prior convictions, the prosecuting attorney shall include on the
14 complaint and information a statement listing the prior conviction.
15 The existence of a prior conviction must be determined by the
16 court, without a jury, at sentencing or at a separate hearing for
17 that purpose before sentencing. The existence of a prior conviction
18 may be established by any evidence relevant for that purpose,
19 including, but not limited to, 1 or more of the following:

- 20 (a) A copy of the judgment of conviction.
21 (b) A transcript of a prior trial, plea, or sentencing.
22 (c) Information contained in a presentence report.
23 (d) The defendant's statement.

24 (9) If the court finds a practitioner or insurer responsible
25 for or guilty of a fraudulent insurance act under section 4503, the
26 court shall notify the appropriate licensing authority in this
27 state of the adjudication.