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**Consumer Protection & Business  
Committee**

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**HB 2394**

**Brief Description:** Enhancing public safety and enforcement of crimes that impact insurance.

**Sponsors:** Representatives Goodman, Zahn, Taylor, Salahuddin, Thomas, Obras, Berry, Ormsby and Nance; by request of Insurance Commissioner.

**Brief Summary of Bill**

- Modifies the Insurance Fraud Program (Program) administered by the Insurance Commissioner (Commissioner) and the crime of Insurance Fraud, including: the definition of Insurance Fraud, its penalty, and statute of limitations; the Program's purpose; the Commissioner's authority; duties of insurers, licensees, businesses, and other persons; and victim restitution.

**Hearing Date:** 1/27/26

**Staff:** Peter Clodfelter (786-7127).

**Background:**

Insurance Fraud Program.

There is an Insurance Fraud Program (Program) within the Office of the Insurance Commissioner. The Insurance Commissioner (Commissioner) may employ supervisory, legal, and investigative personnel for the Program, who must be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud in which the insurance industry is a victim.

The chief of the Program is a full-time position that is appointed by the Commissioner. The

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Commissioner may fund one or more Washington State Patrol officers, assistant attorneys general, and support staff to work with the Program.

The Commissioner may make grants to or reimburse local prosecuting attorneys to assist in the prosecution of insurance fraud. The Commissioner may investigate and seek prosecution of crimes involving insurance fraud upon the request of, or with the concurrence of, the county prosecuting attorney of the jurisdiction in which the offense has occurred. Before such a prosecution, the Commissioner and the county in which the offense occurred must agree regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any prosecution.

#### Insurance Fraud Program—Purpose.

The stated purpose of the Program is to confront the problem of insurance fraud in Washington by making a concerted effort to detect insurance fraud, reduce the occurrence of fraud through criminal enforcement and deterrence, require restitution of fraudulently obtained insurance benefits and expenses incurred by an insurer in investigating fraudulent claims, and reduce the amount of premium dollars used to pay fraudulent claims. The primary focus of the Program is on organized fraudulent activities committed against insurance companies.

#### Insurance Fraud Program—Definitions.

"Insurance fraud" means an act or omission committed by a person who, knowingly, and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

- presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, insurance producer, or surplus line broker, false information as part of, in support of, or concerning a fact material to one or more of the following:
  1. an application for the issuance or renewal of an insurance policy;
  2. the rating of an insurance policy or contract;
  3. a claim for payment or benefit pursuant to an insurance policy;
  4. premiums paid on an insurance policy;
  5. payments made in accordance with the terms of an insurance policy; or
  6. the reinstatement of an insurance policy;
- willfully embezzling, abstracting, purloining, or converting moneys, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance; or
- attempting to commit, aiding or abetting in the commission of, or conspiracy to commit the specified acts or omissions.

The definition of insurance fraud includes that it is for illustrative purposes to describe the nature of the behavior to be reported and investigated, and is not intended in any manner to create or modify the definition of any existing criminal acts nor to create or modify the burdens of proof in any criminal prosecution brought as a result of an investigation under the Insurance Fraud Program.

For purposes of the Program, "insurer" means authorized insurance company, a registered health

care service contractor, and a registered health care maintenance organization.

False or Fraudulent Claim—Penalty.

Under the Insurance Code, it is unlawful for any person, knowing it to be such, to present, or cause to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss under a contract of insurance; or prepare, make, or subscribe any false or fraudulent account, certificate, affidavit, or proof of loss, or other document or writing, with intent that it be presented or used in support of such a claim. A violation is a gross misdemeanor. However, if the claim is in excess of \$1,500, the violation is a class C felony.

Insurance Fraud Program—Commissioner Powers.

The Commissioner's powers under the Program include the following:

- employing and training personnel and employing legal counsel, investigators, auditors, and clerical support personnel and other personnel as the Commissioner determines necessary from time to time to accomplish the Program's purposes;
- initiating inquiries and conducting investigations when the Commissioner has cause to believe that insurance fraud has been, is being, or is about to be committed;
- conducting independent examinations of alleged insurance fraud;
- reviewing notices, reports, or complaints of suspected insurance fraud activities from federal, state, and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and any other person to determine whether the reports require further investigation;
- sharing records and evidence with federal, state, or local law enforcement or regulatory agencies, and entering into interagency agreements;
- conducting investigations outside of Washington;
- administering oaths and affirmations, subpoenaing witnesses, compelling their attendance, taking evidence, and requiring the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the Commissioner deems relevant or material to an inquiry concerning insurance fraud;
- reporting incidents of alleged insurance fraud disclosed by its investigations to the appropriate prosecutorial authority, including but not limited to the Attorney General and to any other appropriate law enforcement, administrative, regulatory, or licensing agency;
- assembling evidence, preparing charges, and working closely with any prosecutorial authority having jurisdiction to pursue prosecution of insurance fraud;
- undertaking independent studies to determine the extent of fraudulent insurance acts; and
- receiving documents, materials, or information from: the National Association of Insurance Commissioners and its affiliates and subsidiaries; regulatory and law enforcement officials of other states and nations, the federal government, and international authorities; the National Insurance Crime Bureau; and an insurer with respect to whom the suspected fraudulent claim may be perpetrated.

Furnishing and Disclosing Insurance Fraud Knowledge and Information.

Any insurer or licensee of the Commissioner that has reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be

committed must furnish and disclose the knowledge and information to the Commissioner or the National Insurance Crime Bureau, the National Association of Insurance Commissioners, or similar organization, who must disclose the information to the Commissioner, and cooperate fully with any investigation conducted by the Commissioner.

Any person who has a reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be committed; or any person who collects, reviews, or analyzes information concerning insurance fraud which is or may be a crime under Washington law may furnish and disclose any information in its possession concerning such an act to the Commissioner or to an authorized representative of an insurer that requests the information for the purpose of detecting, prosecuting, or preventing insurance fraud.

#### Insurance Company as Victim—Restitution.

In a criminal prosecution for any crime under Washington law in which the insurance company is a victim, the insurance company is entitled to be considered as a victim in any restitution ordered by the court under statutes applicable to offenses committed after July 1, 1985, as part of the criminal penalty imposed against the defendant convicted for such a violation.

#### Statute of Limitations.

Unless a longer time is specified in statute, generally no felony may be prosecuted more than three years after its commission. Generally, no gross misdemeanor may be prosecuted more than two years after its commission. No misdemeanor may be prosecuted more than one year after its commission.

### **Summary of Bill:**

#### Insurance Fraud Program.

The personnel that the Commissioner may employ must be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud and other other crimes in which the insurance industry or an insurance consumer or beneficiary is a victim or impacted, instead of qualified by training and experience in the areas of detection, investigation, or prosecution of fraud in which the insurance industry is a victim.

#### Program Purpose.

The Program's purpose is revised to make a purpose to confront the problem of insurance fraud and other crimes that impact the insurance industry, or insurance consumers or beneficiaries in Washington by updating definitions to address recurring or technologically sophisticated fraud schemes, and making a concerted effort to: detect such crimes, reduce their occurrence through criminal enforcement and deterrence; require restitution of expenses incurred by an insurer in investigating or paying fraudulent claims or resulting from other crimes; and require restitution to insurance consumers victimized by insurance fraud and other insurance-related crimes. The primary focus of the insurance fraud program is on organized or collusive criminal schemes that are fraudulent activities committed against impact insurance companies or insurance consumers, rather than on organized fraudulent activities committed against insurance companies.

Insurance Fraud Program—Definitions and Crime of Insurance Fraud.

The definition of "insurance fraud" is revised and restructured as a crime of Insurance Fraud, punishable as a class B felony. Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance is changed to embezzling, abstracting, purloining, or engaging or conspiring in conversion of moneys, funds, premiums, credits, benefits, or other property of an insurer or person engaged in the business of insurance, or insurance consumer or beneficiary.

Insurance Fraud also includes:

- submitting of a bill or claim to an insurer or insurance consumer:
  1. for medical, vehicle, or property services not rendered, vehicle or property repairs not made, or supplies not provided;
  2. using a current procedural terminology code or health care common procedure coding system code not reasonably appropriate to the service provided or procedure performed; or
  3. using the name, credentials, or national provider identifier of a health care provider who neither rendered nor supervised the billed service;
- submitting a statement, estimate, invoice, bid, proposal, proof of loss, or any other document that misrepresents the scope of damages or costs of repairs associated with a property insurance claim;
- falsifying diagnostic or treatment information in a patient's medical file to bill for treatments or prescriptions that would not otherwise have been covered by the insurer;
- misrepresenting the identity of, or impersonating, a person, government representative, or business in connection with an insurance policy application, premium payment, claim, or the solicitation or performance of mitigation, restoration, or repair services;
- procuring or handling funds intended for payment of premium in any of the following ways:
  1. collecting or receiving funds intended for the payment of premium from an individual or entity, or under a premium finance agreement, but misappropriating or converting the funds, or failing to remit the funds to the insurer in a prompt manner;
  2. misrepresenting the amount of premium owed or the terms of a premium finance agreement; or
  3. submitting falsified or forged premium finance agreements or insurance policy information to obtain premium finance loan proceeds; or
- when appraising or umpiring under the appraisal clause of an insurance contract, failing to do so in an impartial manner, including:
  1. in a self-interested manner, such as on a contingency fee basis, or to secure additional appraisal or umpiring opportunities; or
  2. according to influence from an insurer, policyholder, claimant, or other.

The provision is removed that the definition of "insurance fraud" in the Program is for illustrative purposes to describe the nature of the behavior to be reported and investigated, and is not intended in any manner to create or modify the definition of any existing criminal acts, nor to

create or modify the burdens of proof in any criminal prosecution brought as a result of an investigation under the Insurance Fraud Program.

Each instance of Insurance Fraud constitutes a separate offense. Insurance fraud may be charged and prosecuted in any county where the crime occurred, the accused resides, an insurance consumer or beneficiary victimized by the crime resides, or an impacted insurer has its primary place of business within Washington.

For purposes of determining whether a current procedural terminology code was reasonably appropriate for the service provided or procedure performed, the trier of fact must consider any evidence presented, and the applicable current procedural terminology code set published by the American Medical Association.

For purposes of determining whether a health care common procedure coding system code was reasonably appropriate for the service provided or the procedure performed, the trier of fact must consider any evidence presented, and the applicable current procedural terminology code set published by the Department of Health and Human Services, Centers for Medicare and Medicaid Services.

The definition of "insurer" in the Program is modified to add a disability insurer.

#### Commissioner Powers.

The Commissioner's powers under the Program are added to or revised as follows, so the Commissioner may:

- contract for goods and services;
- employ financial or digital forensic staff;
- initiate inquiries and conduct investigations when the Commissioner has cause to believe that other crimes, not only insurance fraud, that impact the insurance industry or insurance consumers or beneficiaries, has been, is being, or is about to be committed;
- conduct independent investigations, instead of examinations, of not only insurance fraud activities but insurance fraud or other crimes that impact the insurance industry or insurance consumers or beneficiaries;
- review notices, reports, or complaints of, not only suspected insurance fraud activities, but insurance fraud or other crimes that impact the insurance industry or insurance consumers or beneficiaries;
- share records and evidence with prosecutorial, or regulatory entities, and enter into interagency, joint operation, or cross commission agreements;
- obtain evidence, instead of take evidence, and require and compel, instead of require, the production of any books, papers, correspondence, memoranda, agreement, data, or other documents or records that the Commissioner deems relevant or material to an inquiry concerning insurance fraud or other crimes that impact the insurance industry or insurance consumers or beneficiaries;
- report incidents, not only of alleged insurance fraud, but of other crimes that impact the insurance industry or insurance consumers or beneficiaries disclosed by its investigations,

to the appropriate prosecutorial authority including the Attorney General, a county or federal prosecuting authority, and to any other appropriate law enforcement, administrative, regulatory, or licensing agency;

- assemble evidence, prepare charges, and work closely with any prosecutorial authority having jurisdiction to pursue prosecution of, not only insurance fraud, but also other crimes that impact the insurance industry or insurance consumers or beneficiaries;
- acquire and use technology to accomplish the purposes of the Program including, but not limited to, detecting crime and collusive schemes, and organizing and analyzing data, evidence, investigations, and exhibits; and
- receive documents, materials, or information from any source including but not limited to the sources identified in current law, which are exempt from public inspection and copying.

#### Furnishing and Disclosing Insurance Fraud Knowledge and Information.

An insurer or licensee of the Commissioner that has reasonable belief that other crimes that impact the insurance industry or insurance consumers or beneficiaries beyond insurance fraud, has been, is being, or is about to be committed, must furnish and disclose the knowledge and information to the Commissioner or the National Insurance Crime Bureau, the National Association of Insurance Commissioners, or similar organization, who must disclose the information to the Commissioner.

Any person who has a reasonable belief that other other crimes that impact the insurance industry or insurance consumers or beneficiaries has been, is being, or is about to be committed, and any person who collects, reviews, or analyzes information concerning other crimes that impact the insurance industry or insurance consumers or beneficiaries, may furnish and disclose any information in its possession concerning such an act to the Commissioner or to an authorized representative of an insurer that requests the information for the purpose of detecting, prosecuting, or preventing crime that impacts the insurance industry, or insurance consumers or beneficiaries.

Any Certified Public Accountant, state or local law enforcement agency, public safety entity, or regulatory entity for health care or financial service providers, that has reasonable belief that an act of insurance fraud or other crime that impacts the insurance industry or insurance consumers or beneficiaries, has been, is being, or is about to be committed, must furnish and disclose any information in its possession concerning such an act to the Commissioner.

#### Financing Payment of a Premium—Disclosure to Commissioner.

Any business entity registered to do business in Washington that executes an agreement to finance the payment of a premium for an insurance policy must send a copy of the executed agreement and the associated insurance policy to the Commissioner within 30 calendar days of executing the agreement.

#### Insurance Company, Insured Person, or Beneficiary as Victim—Restitution.

In a criminal prosecution for any crime under Washington law in which an insured person,

consumer, beneficiary, or insurance company is a victim, not only in which an insurance company is a victim, they are entitled to be considered as a victim in any restitution ordered by the court, as part of the criminal penalty imposed against the defendant convicted for such a violation. Restitution ordered by a court for offenses committed on or before July 1, 1985, is added to the statute.

Statute of Limitations.

A violation of the crime of Insurance Fraud may not be prosecuted more than 10 years after its commission or discovery, whichever is later.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.