

AN ACT

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Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Theft and White Collar Crimes Act of 1982 to clarify the elements of and revise the penalties for first- and second-degree insurance fraud, to establish the offense of misdemeanor insurance fraud, to require that second-degree insurance fraud be deemed a crime of moral turpitude, to restrict the solicitation of clients, patients, or customers within 21 days of a motor vehicle accident for purposes of making insurance claims, and to provide that the provisions pertaining to restrictions on the solicitation of motor vehicle accident victims are nonseverable; and to amend An Act To provide for the more effective prevention, detection, and punishment of crime in the District of Columbia to prohibit the release of Metropolitan Police Department motor vehicle accident reports within 21 days of the accident to persons prohibited from soliciting clients, patients, or customers for purposes of making insurance claims, and to require the Metropolitan Police Department to maintain records of requests for motor vehicle accident reports made within 21 days of the accident.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "White Collar Insurance Fraud Amendment Act of 2006".

Sec. 2. The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 *et seq.*), is amended as follows:

(a) Section 125b (D.C. Official Code § 22-3225.02) is amended as follows:

Amend
§ 22-3225.02

(1) The lead-in language is amended to read as follows:

"A person commits the offense of insurance fraud in the first degree if that person knowingly engages in the following conduct with the intent to defraud or to fraudulently obtain property of another and thereby obtains property of another or causes another to lose property and the value of the property obtained or lost is \$250 or more:".

(2) Paragraph (6) is amended to read as follows:

"(6) Employing or using any other person or acting as the agent of any other person to procure a client, patient, or customer for the purpose of falsely or fraudulently

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obtaining benefits under a contract of insurance or asserting a false or fraudulent claim against an insured or insurer."

(b) Section 125c (D.C. Official Code § 22-3225.03) is amended to read as follows:

**Amend
§ 22-3225.03**

"Sec. 125c. Insurance fraud in the second degree.

"A person commits the offense of insurance fraud in the second degree if that person knowingly engages in conduct specified in section 125b with the intent to defraud or to fraudulently obtain property of another and the value of the property which is sought to be obtained is \$250 or more."

(c) A new section 125c-1 is added to read as follows:

"Sec. 125c-1. Misdemeanor insurance fraud.

"A person commits the offense of misdemeanor insurance fraud if that person knowingly engages in conduct specified in section 125b with the intent to defraud or to fraudulently obtain property of another."

(d) Section 125d (D.C. Official Code § 22-3225.04) is amended to read as follows:

**Amend
§ 22-3225.04**

"Sec. 125d. Penalties.

"(a) Any person convicted of insurance fraud in the first degree shall be fined not more than \$50,000 or imprisoned for not more than 15 years, or both.

"(b)(1) Except as provided in paragraph (2) of this subsection, any person convicted of insurance fraud in the second degree shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

"(2) Any person convicted of insurance fraud in the second degree who has been convicted previously of insurance fraud pursuant to sections 125b or 125c, or a felony conviction based on similar grounds in any other jurisdiction, shall be fined not more than \$20,000 or imprisoned for not more than 10 years, or both.

"(c) Any person convicted of misdemeanor insurance fraud shall be fined not more than \$1,000 or imprisoned for not more than 180 days, or both.

"(d) A person convicted of a felony violation of this subtitle shall be disqualified from engaging in the business of insurance, subject to 18 U.S.C. § 1033(e)(2)."

(e) Section 125g(a) (D.C. Official Code & 22-3225.07(a)) is amended by striking the phrase "offense of insurance fraud in the first degree" and inserting the phrase "offenses of insurance fraud in the first degree or the second degree" in its place.

**Amend
§ 22-3225.07**

(f) A new section 125n is added to read as follows:

"Sec. 125n. Prohibition of solicitation.

"(a)(1) Except as provided in paragraph (2) of this subsection, it is unlawful for a practitioner, whether directly or through a paid intermediary, to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident with the intent to seek benefits under a contract of insurance or to assert a claim against an insured, a governmental entity, or an insurer on behalf of any person arising out of the accident.

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"(2) The prohibition in paragraph (1) of this subsection does not prohibit:

“(A) A practitioner from soliciting a client, patient, or customer by regular mail through the U.S. Postal Service or through the use of general advertising directed to the public;

“(B) A practitioner or his agents from contacting a potential client, patient, or customer, or a family member, friend, or coworker of the potential client, patient, or customer, where the practitioner has a preexisting business or personal relationship with the potential client, patient, or customer;

“(C) A practitioner or his agents from contacting a potential client, patient, or customer where the contact was initiated by the potential client, patient, or customer, or by a family member, friend, or coworker of the potential client, patient or customer; or

“(D) Providing advice and assistance to incarcerated persons in pursuing administrative remedies that may be a prerequisite to suit or in seeking appropriate medical care and treatment.

"(b) Except as provided in subsection (a)(2) of this section, it is unlawful for a person to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident for the purpose of directing the client, patient, or customer to a practitioner.

“(c) A person or practitioner found by clear and convincing evidence to have violated the provisions of this section shall be subject to a civil penalty of \$1,000. The Mayor may increase this penalty by rulemaking.

"(d)(1) If a person involved in an automobile accident, or his parent or guardian, executes, within 21 days of a motor vehicle accident, a release of liability, without the assistance or guidance of legal counsel, pursuant to the settlement of a claim for personal injury, that person or his parent or guardian may void the release; provided, that the insurance carrier or other settling party receives written notice of the intent to void the release within 14 days of the date that the release was executed, and the written notice is accompanied by any check or settlement proceeds related to the claim for personal injury that had been delivered to the claimant.

“(2) A release of liability executed within 21 days of the accident giving rise to the claim of personal injury by a person who is not represented by counsel shall contain a notice of the claimant's right to rescind conspicuously and separately stated on the release.

"(e) The provisions of this section are not severable.”.

Amend
§ 5-113.06

Sec. 3. Section 389 of An Act To provide for the more effective prevention, detection and punishment of crime in the District of Columbia, approved June 29, 1953 (67 Stat. 99; D.C. Official Code § 5-113.06), is amended as follows:

(a) Subsection (a) is amended by striking the phrase "The records" and inserting the phrase "Except as provided in subsection (c) of this section, the records" in its place.

(b) A new subsection (c) is added to read as follows:

"(c)(1) Notwithstanding any other law, the Metropolitan Police Department shall not release or otherwise make available reports of motor vehicle accidents to any person prohibited from soliciting or procuring clients, patients, or customers pursuant to section 125n of the District of Columbia Theft and White Collar Crimes Act of 1982, passed on 2nd reading on March 7, 2006 (Enrolled version of Bill 16-208) ("Act"). This section does not prohibit an attorney retained by a person involved in an accident, or the agent of that attorney, from obtaining the report of that accident.

"(2) In addition to any other requirements, a person requesting to inspect or copy a motor vehicle accident report within 21 days of the accident shall:

"(A) Produce for inspection and copying a government-issued, photo identification; and

"(B) Provide a signed statement that:

"(i) Identifies the requested report;

"(ii) Includes the printed name of the requestor; and

"(iii) Attests that the requestor is not prohibited from obtaining the report under paragraph (1) of this subsection.

"(3) For each request to inspect or copy a motor vehicle accident report made within 21 days of the accident, the Metropolitan Police Department shall maintain for one year a copy of the requestor's photo identification and the statement provided pursuant to paragraph (2) of this subsection."

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

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24,1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia