

1-1 By: Collier (Senate Sponsor - Buckingham) H.B. No. 2894
 1-2 (In the Senate - Received from the House May 9, 2019;
 1-3 May 10, 2019, read first time and referred to Committee on Criminal
 1-4 Justice; May 15, 2019, reported favorably by the following vote:
 1-5 Yeas 5, Nays 0; May 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman	X			
1-9 Buckingham	X			
1-10 Flores			X	
1-11 Hughes			X	
1-12 Miles	X			
1-13 Perry	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the prosecution of health care fraud; creating a
 1-18 criminal offense.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Article 12.01, Code of Criminal Procedure, is
 1-21 amended to read as follows:

1-22 Art. 12.01. FELONIES. Except as provided in Article 12.03,
 1-23 felony indictments may be presented within these limits, and not
 1-24 afterward:

1-25 (1) no limitation:

1-26 (A) murder and manslaughter;

1-27 (B) sexual assault under Section 22.011(a)(2),
 1-28 Penal Code, or aggravated sexual assault under Section
 1-29 22.021(a)(1)(B), Penal Code;

1-30 (C) sexual assault, if:

1-31 (i) during the investigation of the offense
 1-32 biological matter is collected and subjected to forensic DNA
 1-33 testing and the testing results show that the matter does not match
 1-34 the victim or any other person whose identity is readily
 1-35 ascertained; or

1-36 (ii) probable cause exists to believe that
 1-37 the defendant has committed the same or a similar sexual offense
 1-38 against five or more victims;

1-39 (D) continuous sexual abuse of young child or
 1-40 children under Section 21.02, Penal Code;

1-41 (E) indecency with a child under Section 21.11,
 1-42 Penal Code;

1-43 (F) an offense involving leaving the scene of an
 1-44 accident under Section 550.021, Transportation Code, if the
 1-45 accident resulted in the death of a person;

1-46 (G) trafficking of persons under Section
 1-47 20A.02(a)(7) or (8), Penal Code;

1-48 (H) continuous trafficking of persons under
 1-49 Section 20A.03, Penal Code; or

1-50 (I) compelling prostitution under Section
 1-51 43.05(a)(2), Penal Code;

1-52 (2) ten years from the date of the commission of the
 1-53 offense:

1-54 (A) theft of any estate, real, personal or mixed,
 1-55 by an executor, administrator, guardian or trustee, with intent to
 1-56 defraud any creditor, heir, legatee, ward, distributee,
 1-57 beneficiary or settlor of a trust interested in such estate;

1-58 (B) theft by a public servant of government
 1-59 property over which the public servant ~~he~~ exercises control in
 1-60 the public servant's ~~his~~ official capacity;

1-61 (C) forgery or the uttering, using or passing of
 1-62 forged instruments;

2-1 (D) injury to an elderly or disabled individual
2-2 punishable as a felony of the first degree under Section 22.04,
2-3 Penal Code;
2-4 (E) sexual assault, except as provided by
2-5 Subdivision (1);
2-6 (F) arson;
2-7 (G) trafficking of persons under Section
2-8 20A.02(a)(1), (2), (3), or (4), Penal Code; or
2-9 (H) compelling prostitution under Section
2-10 43.05(a)(1), Penal Code;
2-11 (3) seven years from the date of the commission of the
2-12 offense:
2-13 (A) misapplication of fiduciary property or
2-14 property of a financial institution;
2-15 (B) securing execution of document by deception;
2-16 (C) a felony violation under Chapter 162, Tax
2-17 Code;
2-18 (D) false statement to obtain property or credit
2-19 under Section 32.32, Penal Code;
2-20 (E) money laundering;
2-21 (F) credit card or debit card abuse under Section
2-22 32.31, Penal Code;
2-23 (G) fraudulent use or possession of identifying
2-24 information under Section 32.51, Penal Code;
2-25 (H) exploitation of a child, elderly individual,
2-26 or disabled individual under Section 32.53, Penal Code;
2-27 (I) health care [~~Medicaid~~] fraud under Section
2-28 35A.02, Penal Code; or
2-29 (J) bigamy under Section 25.01, Penal Code,
2-30 except as provided by Subdivision (6);
2-31 (4) five years from the date of the commission of the
2-32 offense:
2-33 (A) theft or robbery;
2-34 (B) except as provided by Subdivision (5),
2-35 kidnapping or burglary;
2-36 (C) injury to an elderly or disabled individual
2-37 that is not punishable as a felony of the first degree under Section
2-38 22.04, Penal Code;
2-39 (D) abandoning or endangering a child; or
2-40 (E) insurance fraud;
2-41 (5) if the investigation of the offense shows that the
2-42 victim is younger than 17 years of age at the time the offense is
2-43 committed, 20 years from the 18th birthday of the victim of one of
2-44 the following offenses:
2-45 (A) sexual performance by a child under Section
2-46 43.25, Penal Code;
2-47 (B) aggravated kidnapping under Section
2-48 20.04(a)(4), Penal Code, if the defendant committed the offense
2-49 with the intent to violate or abuse the victim sexually; or
2-50 (C) burglary under Section 30.02, Penal Code, if
2-51 the offense is punishable under Subsection (d) of that section and
2-52 the defendant committed the offense with the intent to commit an
2-53 offense described by Subdivision (1)(B) or (D) of this article or
2-54 Paragraph (B) of this subdivision;
2-55 (6) ten years from the 18th birthday of the victim of
2-56 the offense:
2-57 (A) trafficking of persons under Section
2-58 20A.02(a)(5) or (6), Penal Code;
2-59 (B) injury to a child under Section 22.04, Penal
2-60 Code; or
2-61 (C) bigamy under Section 25.01, Penal Code, if
2-62 the investigation of the offense shows that the person, other than
2-63 the legal spouse of the defendant, whom the defendant marries or
2-64 purports to marry or with whom the defendant lives under the
2-65 appearance of being married is younger than 18 years of age at the
2-66 time the offense is committed; or
2-67 (7) three years from the date of the commission of the
2-68 offense: all other felonies.
2-69 SECTION 2. Section 3(a)(3), Article 37.07, Code of Criminal
2-70 Procedure, is amended to read as follows:

3-1 (3) Regardless of the plea and whether the punishment
 3-2 is assessed by the judge or the jury, during the punishment phase of
 3-3 the trial of an offense under Section 35A.02, Penal Code, subject to
 3-4 the applicable rules of evidence, the state and the defendant may
 3-5 offer evidence not offered during the guilt or innocence phase of
 3-6 the trial concerning the total pecuniary loss to the affected
 3-7 health care [Medicaid] program caused by the defendant's conduct
 3-8 or, if applicable, the scheme or continuing course of conduct of
 3-9 which the defendant's conduct is part. Evidence may be offered in
 3-10 summary form [~~Subject to the applicable rules of evidence, an~~
 3-11 ~~employee of the Health and Human Services Commission's office of~~
 3-12 ~~inspector general or the office of attorney general's Medicaid~~
 3-13 ~~fraud control unit may testify]~~ concerning the total pecuniary loss
 3-14 to the affected health care [Medicaid] program. Testimony
 3-15 regarding the total pecuniary loss to the affected health care
 3-16 program [~~An employee who testifies under this subdivision]~~ is
 3-17 subject to cross-examination. Evidence offered under this
 3-18 subdivision may be considered by the judge or jury in ordering or
 3-19 recommending the amount of any restitution to be made to the
 3-20 affected health care [Medicaid] program or the appropriate
 3-21 punishment for the defendant.

3-22 SECTION 3. Article 59.01(2), Code of Criminal Procedure, is
 3-23 amended to read as follows:

3-24 (2) "Contraband" means property of any nature,
 3-25 including real, personal, tangible, or intangible, that is:

3-26 (A) used in the commission of:

3-27 (i) any first or second degree felony under
 3-28 the Penal Code;

3-29 (ii) any felony under Section 15.031(b),
 3-30 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
 3-31 33A, or 35, Penal Code;

3-32 (iii) any felony under The Securities Act
 3-33 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

3-34 (iv) any offense under Chapter 49, Penal
 3-35 Code, that is punishable as a felony of the third degree or state
 3-36 jail felony, if the defendant has been previously convicted three
 3-37 times of an offense under that chapter;

3-38 (B) used or intended to be used in the commission
 3-39 of:

3-40 (i) any felony under Chapter 481, Health
 3-41 and Safety Code (Texas Controlled Substances Act);

3-42 (ii) any felony under Chapter 483, Health
 3-43 and Safety Code;

3-44 (iii) a felony under Chapter 151, Finance
 3-45 Code;

3-46 (iv) any felony under Chapter 34, Penal
 3-47 Code;

3-48 (v) a Class A misdemeanor under Subchapter
 3-49 B, Chapter 365, Health and Safety Code, if the defendant has been
 3-50 previously convicted twice of an offense under that subchapter;

3-51 (vi) any felony under Chapter 32, Human
 3-52 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
 3-53 involves a health care [~~the state Medicaid]~~ program, as defined by
 3-54 Section 35A.01, Penal Code;

3-55 (vii) a Class B misdemeanor under Chapter
 3-56 522, Business & Commerce Code;

3-57 (viii) a Class A misdemeanor under Section
 3-58 306.051, Business & Commerce Code;

3-59 (ix) any offense under Section 42.10, Penal
 3-60 Code;

3-61 (x) any offense under Section 46.06(a)(1)
 3-62 or 46.14, Penal Code;

3-63 (xi) any offense under Chapter 71, Penal
 3-64 Code;

3-65 (xii) any offense under Section 20.05 or
 3-66 20.06, Penal Code; or

3-67 (xiii) an offense under Section 326.002,
 3-68 Business & Commerce Code;

3-69 (C) the proceeds gained from the commission of a
 3-70 felony listed in Paragraph (A) or (B) of this subdivision, a

4-1 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of
4-2 this subdivision, or a crime of violence;

4-3 (D) acquired with proceeds gained from the
4-4 commission of a felony listed in Paragraph (A) or (B) of this
4-5 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
4-6 or (xi) of this subdivision, or a crime of violence;

4-7 (E) used to facilitate or intended to be used to
4-8 facilitate the commission of a felony under Section 15.031 or
4-9 43.25, Penal Code; or

4-10 (F) used to facilitate or intended to be used to
4-11 facilitate the commission of a felony under Section 20A.02 or
4-12 Chapter 43, Penal Code.

4-13 SECTION 4. Article 59.06(p), Code of Criminal Procedure, is
4-14 amended to read as follows:

4-15 (p) Notwithstanding Subsection (a), and to the extent
4-16 necessary to protect the state's ~~[commission's]~~ ability to recover
4-17 amounts wrongfully obtained by the owner of the property and
4-18 associated damages and penalties to which the affected health care
4-19 program ~~[commission]~~ may otherwise be entitled by law, the attorney
4-20 representing the state shall transfer to the governmental entity
4-21 administering the affected health care program ~~[Health and Human
4-22 Services Commission]~~ all forfeited property defined as contraband
4-23 under Article 59.01(2)(B)(vi). If the forfeited property consists
4-24 of property other than money or negotiable instruments, the
4-25 attorney representing the state may, with the consent of the
4-26 governmental entity administering the affected health care program
4-27 ~~[if approved by the commission]~~, sell the property and deliver to
4-28 the governmental entity administering the affected health care
4-29 program ~~[commission]~~ the proceeds from the sale, minus costs
4-30 attributable to the sale. The sale must be conducted in a manner
4-31 that is reasonably expected to result in receiving the fair market
4-32 value for the property.

4-33 SECTION 5. Section 250.006(a), Health and Safety Code, is
4-34 amended to read as follows:

4-35 (a) A person for whom the facility or the individual
4-36 employer is entitled to obtain criminal history record information
4-37 may not be employed in a facility or by an individual employer if
4-38 the person has been convicted of an offense listed in this
4-39 subsection:

- 4-40 (1) an offense under Chapter 19, Penal Code (criminal
4-41 homicide);
- 4-42 (2) an offense under Chapter 20, Penal Code
4-43 (kidnapping, unlawful restraint, and smuggling of persons);
- 4-44 (3) an offense under Section 21.02, Penal Code
4-45 (continuous sexual abuse of young child or children), or Section
4-46 21.11, Penal Code (indecent exposure with a child);
- 4-47 (4) an offense under Section 22.011, Penal Code
4-48 (sexual assault);
- 4-49 (5) an offense under Section 22.02, Penal Code
4-50 (aggravated assault);
- 4-51 (6) an offense under Section 22.04, Penal Code (injury
4-52 to a child, elderly individual, or disabled individual);
- 4-53 (7) an offense under Section 22.041, Penal Code
4-54 (abandoning or endangering child);
- 4-55 (8) an offense under Section 22.08, Penal Code (aiding
4-56 suicide);
- 4-57 (9) an offense under Section 25.031, Penal Code
4-58 (agreement to abduct from custody);
- 4-59 (10) an offense under Section 25.08, Penal Code (sale
4-60 or purchase of child);
- 4-61 (11) an offense under Section 28.02, Penal Code
4-62 (arson);
- 4-63 (12) an offense under Section 29.02, Penal Code
4-64 (robbery);
- 4-65 (13) an offense under Section 29.03, Penal Code
4-66 (aggravated robbery);
- 4-67 (14) an offense under Section 21.08, Penal Code
4-68 (indecent exposure);
- 4-69 (15) an offense under Section 21.12, Penal Code
4-70 (improper relationship between educator and student);

- 5-1 (16) an offense under Section 21.15, Penal Code
- 5-2 (invasive [~~improper photography or~~ visual recording);
- 5-3 (17) an offense under Section 22.05, Penal Code
- 5-4 (deadly conduct);
- 5-5 (18) an offense under Section 22.021, Penal Code
- 5-6 (aggravated sexual assault);
- 5-7 (19) an offense under Section 22.07, Penal Code
- 5-8 (terroristic threat);
- 5-9 (20) an offense under Section 32.53, Penal Code
- 5-10 (exploitation of child, elderly individual, or disabled
- 5-11 individual);
- 5-12 (21) an offense under Section 33.021, Penal Code
- 5-13 (online solicitation of a minor);
- 5-14 (22) an offense under Section 34.02, Penal Code (money
- 5-15 laundering);
- 5-16 (23) an offense under Section 35A.02, Penal Code
- 5-17 (health care [~~Medicaid~~] fraud);
- 5-18 (24) an offense under Section 36.06, Penal Code
- 5-19 (obstruction or retaliation);
- 5-20 (25) an offense under Section 42.09, Penal Code
- 5-21 (cruelty to livestock animals), or under Section 42.092, Penal Code
- 5-22 (cruelty to nonlivestock animals); or
- 5-23 (26) a conviction under the laws of another state,
- 5-24 federal law, or the Uniform Code of Military Justice for an offense
- 5-25 containing elements that are substantially similar to the elements
- 5-26 of an offense listed by this subsection.

5-27 SECTION 6. Chapter 35A, Penal Code, is amended to read as

5-28 follows:

5-29 CHAPTER 35A. HEALTH CARE [~~MEDICAID~~] FRAUD

5-30 Sec. 35A.01. DEFINITIONS. In this chapter:

5-31 (1) "Claim" means a written or electronically

5-32 submitted request or demand that:

5-33 (A) is submitted by a provider or the provider's

5-34 agent and identifies a service or product provided or purported to

5-35 have been provided to a health care recipient as reimbursable under

5-36 a health care program, without regard to whether the money that is

5-37 requested or demanded is paid; or

5-38 (B) states the income earned or expense incurred

5-39 by a provider in providing a service or product and is used to

5-40 determine a rate of payment under a health care program [~~has the~~

5-41 ~~meaning assigned by Section 36.001, Human Resources Code].~~

5-42 (2) "Fiscal agent" means:

5-43 (A) a person who, through a contractual

5-44 relationship with a state agency or the federal government,

5-45 receives, processes, and pays a claim under a health care program;

5-46 or

5-47 (B) the designated agent of a person described by

5-48 Paragraph (A) [~~has the meaning assigned by Section 36.001, Human~~

5-49 ~~Resources Code].~~

5-50 (3) "Health care practitioner" means a dentist,

5-51 podiatrist, psychologist, physical therapist, chiropractor,

5-52 registered nurse, or other provider licensed to provide health care

5-53 services in this state [~~has the meaning assigned by Section 36.001,~~

5-54 ~~Human Resources Code].~~

5-55 (4) "Health care program" means a program funded by

5-56 this state, the federal government, or both and designed to provide

5-57 health care services to health care recipients, including a program

5-58 that is administered in whole or in part through a managed care

5-59 delivery model.

5-60 (5) "Health care recipient" means an individual to

5-61 whom a service or product is provided or purported to have been

5-62 provided and with respect to whom a person claims or receives a

5-63 payment for that service or product from a health care program or

5-64 fiscal agent, without regard to whether the individual was eligible

5-65 for benefits under the health care program.

5-66 (6) "Managed care organization" means a person who is

5-67 authorized or otherwise permitted by law to arrange for or provide a

5-68 managed care plan [~~has the meaning assigned by Section 36.001,~~

5-69 ~~Human Resources Code].~~

5-70 [~~(5) "Medicaid program" has the meaning assigned by~~

6-1 ~~Section 36.001, Human Resources Code.~~
6-2 ~~[(6) "Medicaid recipient" has the meaning assigned by~~
6-3 ~~Section 36.001, Human Resources Code.]~~
6-4 (7) "Physician" means a physician licensed to practice
6-5 medicine in this state ~~[has the meaning assigned by Section 36.001,~~
6-6 ~~Human Resources Code].~~
6-7 (8) "Provider" means a person who participates in or
6-8 has applied to participate in a health care program as a supplier of
6-9 a service or product and includes:
6-10 (A) a management company that manages, operates,
6-11 or controls another provider;
6-12 (B) a person, including a medical vendor, who
6-13 provides a service or product to another provider or the other
6-14 provider's agent;
6-15 (C) an employee of the person who participates in
6-16 or has applied to participate in the program;
6-17 (D) a managed care organization; and
6-18 (E) a manufacturer or distributor of a product
6-19 for which a health care program provides reimbursement ~~[has the~~
6-20 ~~meaning assigned by Section 36.001, Human Resources Code].~~
6-21 (9) "Service" includes care or treatment of a health
6-22 care recipient ~~[has the meaning assigned by Section 36.001, Human~~
6-23 ~~Resources Code].~~
6-24 (10) "High managerial agent" means a director,
6-25 officer, or employee who is authorized to act on behalf of a
6-26 provider and has duties of such responsibility that the conduct of
6-27 the director, officer, or employee reasonably may be assumed to
6-28 represent the policy or intent of the provider.
6-29 Sec. 35A.02. HEALTH CARE ~~[MEDICAID]~~ FRAUD. (a) A person
6-30 commits an offense if the person:
6-31 (1) knowingly makes or causes to be made a false
6-32 statement or misrepresentation of a material fact to permit a
6-33 person to receive a benefit or payment under a health care ~~[the~~
6-34 ~~Medicaid]~~ program that is not authorized or that is greater than the
6-35 benefit or payment that is authorized;
6-36 (2) knowingly conceals or fails to disclose
6-37 information that permits a person to receive a benefit or payment
6-38 under a health care ~~[the Medicaid]~~ program that is not authorized or
6-39 that is greater than the benefit or payment that is authorized;
6-40 (3) knowingly applies for and receives a benefit or
6-41 payment on behalf of another person under a health care ~~[the~~
6-42 ~~Medicaid]~~ program and converts any part of the benefit or payment to
6-43 a use other than for the benefit of the person on whose behalf it was
6-44 received;
6-45 (4) knowingly makes, causes to be made, induces, or
6-46 seeks to induce the making of a false statement or
6-47 misrepresentation of material fact concerning:
6-48 (A) the conditions or operation of a facility in
6-49 order that the facility may qualify for certification or
6-50 recertification under a health care program ~~[required by the~~
6-51 ~~Medicaid program, including certification or recertification as:~~
6-52 ~~[(i) a hospital,~~
6-53 ~~[(ii) a nursing facility or skilled nursing~~
6-54 ~~facility,~~
6-55 ~~[(iii) a hospice,~~
6-56 ~~[(iv) an intermediate care facility for the~~
6-57 ~~mentally retarded,~~
6-58 ~~[(v) an assisted living facility, or~~
6-59 ~~[(vi) a home health agency]; or~~
6-60 (B) information required to be provided by a
6-61 federal or state law, rule, regulation, or provider agreement
6-62 pertaining to a health care ~~[the Medicaid]~~ program;
6-63 (5) except as authorized under a health care ~~[the~~
6-64 ~~Medicaid]~~ program, knowingly pays, charges, solicits, accepts, or
6-65 receives, in addition to an amount paid under the health care
6-66 ~~[Medicaid]~~ program, a gift, money, ~~[a]~~ donation, or other
6-67 consideration as a condition to the provision of a service or
6-68 product or the continued provision of a service or product if the
6-69 cost of the service or product is paid for, in whole or in part,
6-70 under a health care ~~[the Medicaid]~~ program;

7-1 (6) knowingly presents or causes to be presented a
7-2 claim for payment under a health care [~~the Medicaid~~] program for a
7-3 product provided or a service rendered by a person who:
7-4 (A) is not licensed to provide the product or
7-5 render the service, if a license is required; or
7-6 (B) is not licensed in the manner claimed;
7-7 (7) knowingly makes or causes to be made a claim under
7-8 a health care [~~the Medicaid~~] program for:
7-9 (A) a service or product that has not been
7-10 approved or acquiesced in by a treating physician or health care
7-11 practitioner;
7-12 (B) a service or product that is substantially
7-13 inadequate or inappropriate when compared to generally recognized
7-14 standards within the particular discipline or within the health
7-15 care industry; or
7-16 (C) a product that has been adulterated, debased,
7-17 mislabeled, or that is otherwise inappropriate;
7-18 (8) makes a claim under a health care [~~the Medicaid~~]
7-19 program and knowingly fails to indicate the type of license and the
7-20 identification number of the licensed health care practitioner
7-21 [~~provider~~] who actually provided the service;
7-22 (9) knowingly enters into an agreement, combination,
7-23 or conspiracy to defraud the state or federal government by
7-24 obtaining or aiding another person in obtaining an unauthorized
7-25 payment or benefit from a health care [~~the Medicaid~~] program or [~~a~~
7-26 fiscal agent;
7-27 (10) is a managed care organization that contracts
7-28 with the Health and Human Services Commission, another [~~or other~~]
7-29 state agency, or the federal government to provide or arrange to
7-30 provide health care benefits or services to individuals eligible
7-31 under a health care [~~the Medicaid~~] program and knowingly:
7-32 (A) fails to provide to an individual a health
7-33 care benefit or service that the organization is required to
7-34 provide under the contract;
7-35 (B) fails to provide [~~to the commission~~] or
7-36 falsifies [~~appropriate state agency~~] information required to be
7-37 provided by law, [~~commission or agency~~] rule, or contractual
7-38 provision; or
7-39 (C) engages in a fraudulent activity in
7-40 connection with the enrollment of an individual eligible under a
7-41 health care [~~the Medicaid~~] program in the organization's managed
7-42 care plan or in connection with marketing the organization's
7-43 services to an individual eligible under a health care [~~the~~
7-44 ~~Medicaid~~] program;
7-45 (11) knowingly obstructs an investigation by the
7-46 attorney general of an alleged unlawful act under this section or
7-47 under Section 32.039, 32.0391, or 36.002, Human Resources Code; or
7-48 (12) knowingly makes, uses, or causes the making or
7-49 use of a false record or statement to conceal, avoid, or decrease an
7-50 obligation to pay or transmit money or property to this state or the
7-51 federal government under a health care [~~the Medicaid~~] program.
7-52 (b) An offense under this section is:
7-53 (1) a Class C misdemeanor if the amount of any payment
7-54 or the value of any monetary or in-kind benefit provided or claim
7-55 for payment made under a health care [~~the Medicaid~~] program,
7-56 directly or indirectly, as a result of the conduct is less than
7-57 \$100;
7-58 (2) a Class B misdemeanor if the amount of any payment
7-59 or the value of any monetary or in-kind benefit provided or claim
7-60 for payment made under a health care [~~the Medicaid~~] program,
7-61 directly or indirectly, as a result of the conduct is \$100 or more
7-62 but less than \$750;
7-63 (3) a Class A misdemeanor if the amount of any payment
7-64 or the value of any monetary or in-kind benefit provided or claim
7-65 for payment made under a health care [~~the Medicaid~~] program,
7-66 directly or indirectly, as a result of the conduct is \$750 or more
7-67 but less than \$2,500;
7-68 (4) a state jail felony if:
7-69 (A) the amount of any payment or the value of any
7-70 monetary or in-kind benefit provided or claim for payment made

8-1 under a health care [~~the Medicaid~~] program, directly or indirectly,
8-2 as a result of the conduct is \$2,500 or more but less than \$30,000;

8-3 (B) the offense is committed under Subsection
8-4 (a)(11); or

8-5 (C) it is shown on the trial of the offense that
8-6 the amount of the payment or value of the benefit described by this
8-7 subsection cannot be reasonably ascertained;

8-8 (5) a felony of the third degree if:

8-9 (A) the amount of any payment or the value of any
8-10 monetary or in-kind benefit provided or claim for payment made
8-11 under a health care [~~the Medicaid~~] program, directly or indirectly,
8-12 as a result of the conduct is \$30,000 or more but less than
8-13 \$150,000; or

8-14 (B) it is shown on the trial of the offense that
8-15 the defendant submitted more than 25 but fewer than 50 fraudulent
8-16 claims under a health care [~~the Medicaid~~] program and the
8-17 submission of each claim constitutes conduct prohibited by
8-18 Subsection (a);

8-19 (6) a felony of the second degree if:

8-20 (A) the amount of any payment or the value of any
8-21 monetary or in-kind benefit provided or claim for payment made
8-22 under a health care [~~the Medicaid~~] program, directly or indirectly,
8-23 as a result of the conduct is \$150,000 or more but less than
8-24 \$300,000; or

8-25 (B) it is shown on the trial of the offense that
8-26 the defendant submitted 50 or more fraudulent claims under a health
8-27 care [~~the Medicaid~~] program and the submission of each claim
8-28 constitutes conduct prohibited by Subsection (a); or

8-29 (7) a felony of the first degree if the amount of any
8-30 payment or the value of any monetary or in-kind benefit provided or
8-31 claim for payment made under a health care [~~the Medicaid~~] program,
8-32 directly or indirectly, as a result of the conduct is \$300,000 or
8-33 more.

8-34 (c) If conduct constituting an offense under this section
8-35 also constitutes an offense under another section of this code or
8-36 another provision of law, the actor may be prosecuted under either
8-37 this section or the other section or provision or both this section
8-38 and the other section or provision.

8-39 (d) When multiple payments or monetary or in-kind benefits
8-40 are provided under one or more health care programs [~~the Medicaid~~
8-41 ~~program~~] as a result of one scheme or continuing course of conduct,
8-42 the conduct may be considered as one offense and the amounts of the
8-43 payments or monetary or in-kind benefits aggregated in determining
8-44 the grade of the offense.

8-45 (e) The punishment prescribed for an offense under this
8-46 section, other than the punishment prescribed by Subsection (b)(7),
8-47 is increased to the punishment prescribed for the next highest
8-48 category of offense if it is shown beyond a reasonable doubt on the
8-49 trial of the offense that the actor was a [~~provider or~~] high
8-50 managerial agent at the time of the offense.

8-51 (f) With the consent of the appropriate local county or
8-52 district attorney, the attorney general has concurrent
8-53 jurisdiction with that consenting local prosecutor to prosecute an
8-54 offense under this section that involves a health care [~~the~~
8-55 ~~Medicaid~~] program.

8-56 SECTION 7. The change in law made by this Act applies only
8-57 to an offense committed on or after the effective date of this Act.
8-58 An offense committed before the effective date of this Act is
8-59 governed by the law in effect on the date the offense was committed,
8-60 and the former law is continued in effect for that purpose. For
8-61 purposes of this section, an offense was committed before the
8-62 effective date of this Act if any element of the offense occurred
8-63 before that date.

8-64 SECTION 8. This Act takes effect September 1, 2019.

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