

CHAPTER 2014-119

Committee Substitute for House Bill No. 515

An act relating to public assistance fraud; amending s. 414.39, F.S.; providing enhanced criminal penalties if the value of public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value exceeding specified amounts; providing for a reward for a report of original information relating to a violation of the state's public assistance fraud laws if the information and report meet specified requirements; amending s. 414.095, F.S.; limiting to a specified period the use of temporary cash assistance benefits out of state; requiring rulemaking; requiring that a parent or caretaker relative who has been disqualified due to fraud have a protective payee designated to receive temporary cash assistance benefits for eligible children; providing requirements for protective payees; providing appropriations and authorizing positions; providing an effective date.

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

Section 1. Subsections (1) through (5) of section 414.39, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

414.39 Fraud.—

(1) Any person who knowingly:

(a) Fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to such person's qualification to receive public assistance under any state or federally funded assistance program;

(b) Fails to disclose a change in circumstances in order to obtain or continue to receive any such public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or

(c) Aids and abets another person in the commission of any such act, commits ~~is guilty of~~ a crime and shall be punished as provided in subsection (5).

(2) Any person who knowingly:

(a) Uses, transfers, acquires, traffics, alters, forges, or possesses;~~;~~~~or~~

(b) Attempts to use, transfer, acquire, traffic, alter, forge, or possess;~~;~~ or

(c) Aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of,

a food assistance identification card, an authorization, including, but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law commits a crime and shall be punished as provided in subsection (5).

(3) Any person having duties in the administration of a state or federally funded public assistance program or in the distribution of public assistance, or authorizations or identifications to obtain public assistance, under a state or federally funded public assistance program and who:

(a) Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of, food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or public assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or who knowingly fails to disclose any such fraudulent activity; or

(b) Knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of, funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization,

commits ~~is guilty of~~ a crime and shall be punished as provided in subsection (5).

(4) Any person who:

(a) Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of public assistance under any state or federally funded public assistance program for services that were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or knowingly bills the recipient of public assistance under such a program, or his or her family, for an amount in excess of that provided for by law or regulation;

(b) Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or

(c) In any way knowingly receives, attempts to receive, or aids and abets in the receipt of, unauthorized payment or other unauthorized public assistance or authorization or identification to obtain public assistance as provided herein,

commits ~~is guilty of~~ a crime and shall be punished as provided in subsection (5).

(5)(a) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits

a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more, but less than \$20,000 in any 12 consecutive months, such person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months, such person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months, such person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e)(e) As used in this subsection, the value of a food assistance authorization benefit is the cash or exchange value unlawfully obtained by the fraudulent act committed in violation of this section.

(f)(d) As used in this section, “fraud” includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets.

(11)(a) Subject to availability of funds, the department or the director of the Office of Public Benefits Integrity shall, unless the person declines the reward, pay a reward to a person who furnishes and reports original information relating to a violation of the state’s public assistance fraud laws if the information and report:

1. Are made to the department, the Department of Financial Services, or the Department of Law Enforcement.

2. Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person.

3. Lead to the recovery of a fine, penalty, or forfeiture of property.

(b) The reward may not exceed 10 percent of the amount recovered or \$500,000, whichever is less, in a single case.

(c) The reward shall be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to s. 414.41.

(d) A person who receives a reward pursuant to this subsection is not eligible to receive funds pursuant to the Florida False Claims Act for Medicaid fraud for which the reward was received.

Section 2. Paragraphs (k) and (l) are added to subsection (14) of section 414.095, Florida Statutes, to read:

414.095 Determining eligibility for temporary cash assistance.—

(14) PROHIBITIONS AND RESTRICTIONS.—

(k) Use of temporary cash assistance benefits out of state is limited to 30 consecutive days. The temporary cash assistance benefits of a recipient using his or her benefits out-of-state for more than 30 days shall be terminated. The department shall adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state.

(l) A parent or caretaker relative who has been disqualified due to fraud must have a protective payee designated to receive temporary cash assistance benefits for an eligible child. The requirements for designation of a protective payee shall be the same as the requirements for designation of a protective payee for work sanctions in s. 414.065(2)(b). An individual disqualified for fraud cannot be designated as a protective payee. In a two-parent household, if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

Section 3. For the 2014-2015 fiscal year, the sum of \$171,604 in recurring funds and \$4,736 in nonrecurring funds from the General Revenue Fund and \$171,605 in recurring funds and \$4,737 in nonrecurring funds from the Federal Grants Trust Fund are appropriated to the Department of Children and Families, and one full-time equivalent position with associated salary rate of 32,698 are authorized, for the purpose of implementing the cash rewards process provisions of this act.

Section 4. For the 2014-2015 fiscal year, the sum of \$214,135 in recurring funds and \$17,785 in nonrecurring funds are appropriated from the Insurance Regulatory Trust Fund to the Department of Financial Services, and five full-time equivalent positions with associated salary rate of 114,040 are authorized, for the purpose of implementing the cash rewards process provisions of this act.

Section 5. This act shall take effect October 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.