

SENATE BILL 322

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2000 Regular Session
0lr1393
CF 0lr1352

By: **Senators Stone and Hughes (Committee to Revise Article 27)**
Introduced and read first time: February 2, 2000
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - State Health Plan Fraud**

3 FOR the purpose of revising and restating the laws relating to State health plan
4 fraud, Medicaid fraud, and related offenses; prohibiting a person from willfully
5 defrauding or attempting to defraud a State health plan; prohibiting a person
6 from willfully obtaining or attempting to obtain by means of a false
7 representation money, property, or any thing of value under certain
8 circumstances; prohibiting a person from willfully defrauding or attempting to
9 defraud a State health plan of the right to honest services; prohibiting a person
10 with the intent to defraud from making a false representation relating to health
11 care services or a State health plan; prohibiting a certain person from willfully
12 converting all or any part of a State health plan benefit or payment to a use that
13 is not for the authorized beneficiary; prohibiting a person from providing to
14 another individual items or services for which certain payment is or may be
15 made from certain funds and solicit, offer, make, or receive a kickback or bribe
16 in connection with providing certain items or services or making or receiving a
17 benefit or payment under the State health plan; prohibiting a person from
18 soliciting, offering, making, or receiving a rebate of a fee or charge for referring
19 another individual to a third person to provide items or services for which
20 certain payment is made; prohibiting a person from willfully making a false
21 representation with respect to conditions or operations of a facility, institution,
22 or State health plan in order to help the facility, institution, or State health plan
23 qualify to receive certain reimbursement; prohibiting a person from willfully
24 obtaining or aiding another individual in obtaining by certain acts a drug
25 product or medical care the payment for all or part of which is made from
26 certain funds; prohibiting an unauthorized person from willfully possessing
27 certain medical or pharmacy assistance cards; altering the application of certain
28 welfare fraud provisions; providing for a certain statute of limitations for certain
29 misdemeanor offenses; transferring certain welfare application perjury
30 provisions; establishing certain criminal and civil penalties; defining certain
31 terms; making stylistic changes; and generally relating to State health plan
32 fraud.

33 BY repealing and reenacting, with amendments,
34 Article 27 - Crimes and Punishments

- 1 Section 230A
- 2 Annotated Code of Maryland
- 3 (1996 Replacement Volume and 1999 Supplement)

- 4 BY repealing
- 5 Article 27 - Crimes and Punishments
- 6 Section 230B through 230D
- 7 Annotated Code of Maryland
- 8 (1996 Replacement Volume and 1999 Supplement)

- 9 BY adding to
- 10 Article 27 - Crimes and Punishments
- 11 Section 230B through 230H, inclusive, to be under the amended subheading
- 12 "Fraud - State Health Plans"
- 13 Annotated Code of Maryland
- 14 (1996 Replacement Volume and 1999 Supplement)

- 15 BY repealing and reenacting, with amendments,
- 16 Article 88A - Department of Human Resources
- 17 Section 62
- 18 Annotated Code of Maryland
- 19 (1998 Replacement Volume and 1999 Supplement)

- 20 BY repealing and reenacting, without amendments,
- 21 Article - Courts and Judicial Proceedings
- 22 Section 5-106(a)
- 23 Annotated Code of Maryland
- 24 (1998 Replacement Volume and 1999 Supplement)

- 25 BY repealing and reenacting, with amendments,
- 26 Article - Courts and Judicial Proceedings
- 27 Section 5-106(k) and (x)
- 28 Annotated Code of Maryland
- 29 (1998 Replacement Volume and 1999 Supplement)

- 30 BY repealing
- 31 Article - Courts and Judicial Proceedings
- 32 Section 5-106(w)
- 33 Annotated Code of Maryland
- 34 (1998 Replacement Volume and 1999 Supplement)

- 35 BY repealing and reenacting, without amendments,
- 36 Article - Health - General

1 Section 15-101(i)
2 Annotated Code of Maryland
3 (1994 Replacement Volume and 1999 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Health - General
6 Section 15-123
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1999 Supplement)

9 BY repealing
10 Article - Health - General
11 Section 15-123.1
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1999 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article 27 - Crimes and Punishments**

17 230A.

18 (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A VIOLATION OF §§
19 230B THROUGH 230F OF THIS ARTICLE.

20 (B) (1) [Any] A person who fraudulently obtains, attempts to obtain, or aids
21 another person in fraudulently obtaining or attempting to obtain money, property,
22 food stamps, [medical care] or other assistance other than Medicaid to which [he]
23 THE PERSON is not entitled, under a social, [health,] or nutritional program based on
24 need, financed in whole or in part by the State of Maryland, and administered by the
25 State or its political subdivisions is guilty of a misdemeanor. For purposes of this
26 section, fraud shall include:

27 [(1)] (I) Wilfully making a false statement or representation;

28 [(2)] (II) Wilfully failing to disclose a material change in household or
29 financial condition; or

30 [(3)] (III) Impersonating another person.

31 [(b)] (2) Upon conviction, after notice and the opportunity to be heard as to
32 the amount of payment and how the payment is to be made, the person shall make
33 full restitution of the money, property, food stamps, [medical care] or other assistance
34 unlawfully received, or the value thereof, and shall be fined not more than \$1,000 or
35 imprisoned for not more than three years, or both fined and imprisoned.

1 (C) (1) AN APPLICATION FOR MONEY, PROPERTY, FOOD STAMPS, OR OTHER
2 ASSISTANCE, UNDER A SOCIAL OR NUTRITIONAL PROGRAM BASED ON NEED,
3 FINANCED IN WHOLE OR IN PART BY THE STATE, AND ADMINISTERED BY THE
4 DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF HEALTH AND MENTAL
5 HYGIENE, OR THE LOCAL DEPARTMENT OF SOCIAL SERVICES, WHETHER UNDER
6 THIS OR ANY OTHER ARTICLE IN THIS CODE, SHALL BE IN WRITING AND SIGNED BY
7 THE APPLICANT.

8 (2) ANY PERSON WHO IN MAKING AND SIGNING THE APPLICATION
9 REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION MAKES A FALSE OR
10 FRAUDULENT STATEMENT WITH INTENT TO OBTAIN ANY SUCH MONEY, PROPERTY,
11 FOOD STAMPS, OR OTHER ASSISTANCE IS GUILTY OF PERJURY AND ON CONVICTION
12 IS SUBJECT TO THE PENALTIES PROVIDED BY LAW FOR PERJURY.

13 Fraud - [Medical Assistance] STATE HEALTH PLANS

14 [230B.

15 (a) In this subheading, the following words have the meanings indicated.

16 (b) "Medicaid fraud" means:

17 (1) Knowingly and wilfully making or causing to be made any false
18 statement or representation of a material fact in any application for any benefit or
19 payment under a State plan established by Title XIX of the Social Security Act of
20 1939;

21 (2) Knowingly and wilfully making or causing to be made any false
22 statement or representation of a material fact for use in determining rights to those
23 benefits or payments;

24 (3) Having knowledge of the occurrence of any event affecting (i) the
25 initial or continued right to those benefits or payments; or (ii) the initial or continued
26 right to those benefits or payments to any other individual in whose behalf an
27 application has been made or in whose behalf benefits or payments are being
28 received; and concealing or failing to disclose that event with an intent to secure
29 fraudulently those benefits or payments either in a greater amount or quantity than
30 is due or when benefits or payments are not authorized;

31 (4) Having made application to receive or having received any of those
32 benefits or payments for the use and benefit of another; and knowingly and wilfully
33 converting any part of the benefit or payment to a use other than for the use and
34 benefit of that other person;

35 (5) Furnishing to a person items or services for which payment of any
36 part is or may be made from federal or State funds under a State medical assistance
37 program; and soliciting, offering, or receiving any (i) kickback or bribe in connection
38 with the furnishing of those items or services, or the making or receipt of any
39 payment; or (ii) rebate of any fee or charge for referring a person to another person for
40 the furnishing of those items or services;

1 (6) Knowingly or wilfully making or causing to be made, inducing or
2 seeking to induce the making of any false statement or representation of a material
3 fact with respect to the conditions or operation of any institution or facility so that the
4 institution or facility may qualify as a hospital, skilled nursing facility, intermediate
5 care facility, or home health agency;

6 (7) Fraudulently obtaining, attempting to obtain, or aiding another
7 person in obtaining or attempting to obtain any drug product or any medical care, the
8 benefit or payment of any part of which is or may be made from federal or State funds
9 under a State medical assistance program, by use of:

10 (i) Fraud, deceit, misrepresentation or subterfuge;

11 (ii) Forgery or alteration of a medical assistance or pharmacy
12 assistance prescription; or

13 (iii) Concealment of any material fact or by the use of false names or
14 addresses;

15 (8) Unauthorized possession of a blank medical assistance prescription;
16 or

17 (9) Possessing a medical assistance card or pharmacy assistance card
18 without the authorization of the person to whom the card is issued.

19 (c) "Person" includes associations, firms, institutions, partnerships,
20 copartnerships, or corporations, and any member, agent, officer, or employee of any of
21 them.]

22 [230C.

23 It is unlawful to commit Medicaid fraud.]

24 [230D.

25 (a) Every person convicted of the crime of Medicaid fraud in which the value of
26 the money, services, or goods involved is \$500 or more is guilty of a felony, and shall:

27 (1) Make full restitution of the money, services, or goods, or the value of
28 those services or goods unlawfully received;

29 (2) Be subject to a fine of not more than \$10,000, and imprisonment for a
30 period not to exceed five years, or both.

31 (b) Every person convicted of the crime of Medicaid fraud in which the value of
32 the money, services, or goods involved is less than \$500 is guilty of a misdemeanor,
33 and shall:

34 (1) Make restitution of the money, services, or goods, or the value of
35 those services or goods unlawfully received;

1 (2) Be subject to a fine of not more than \$1,000, and imprisonment for a
2 period not to exceed three years, or both.]

3 230B.

4 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "FALSE REPRESENTATION" MEANS:

7 (1) WILLFULLY CONCEALING, FALSIFYING, OR OMITTING A MATERIAL
8 FACT; OR

9 (2) WILLFULLY MAKING A MATERIALLY FALSE OR FRAUDULENT
10 STATEMENT OR WILLFULLY USING A DOCUMENT THAT CONTAINS A STATEMENT OF
11 MATERIAL FACT THAT THE USER KNOWS TO BE FALSE OR FRAUDULENT.

12 (C) (1) "HEALTH CARE SERVICE" MEANS HEALTH OR MEDICAL CARE
13 PROCEDURES, GOODS, OR SERVICES THAT:

14 (I) PROVIDE TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN
15 DISEASE OR DYSFUNCTION; OR

16 (II) DISPENSE DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
17 OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR DYSFUNCTION.

18 (2) "HEALTH CARE SERVICE" INCLUDES ANY PROCEDURE, GOODS, OR
19 SERVICE THAT IS A REQUIRED BENEFIT OF A STATE HEALTH PLAN.

20 (D) "REPRESENTATION" INCLUDES AN ACKNOWLEDGMENT, CERTIFICATION,
21 CLAIM, RATIFICATION, REPORT OF DEMOGRAPHIC STATISTICS, ENCOUNTER DATA,
22 ENROLLMENT CLAIMS, FINANCIAL INFORMATION, HEALTH CARE SERVICES
23 AVAILABLE OR RENDERED, AND QUALIFICATIONS OF A PERSON RENDERING HEALTH
24 CARE OR ANCILLARY SERVICES.

25 (E) "SERIOUS INJURY" MEANS AN INJURY THAT:

26 (1) CREATES A SUBSTANTIAL RISK OF DEATH;

27 (2) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
28 DISFIGUREMENT;

29 (3) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED LOSS OF
30 THE FUNCTION OF ANY BODY PART, ORGAN, OR MENTAL FACULTY;

31 (4) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
32 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR

33 (5) INVOLVES EXTREME PHYSICAL PAIN.

34 (F) (1) "STATE HEALTH PLAN" INCLUDES:

1 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED IN
2 ACCORDANCE WITH TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT OF 1939;

3 (II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE STATE; OR

4 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
5 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN §
6 15-101 OF THE HEALTH - GENERAL ARTICLE, HEALTH CARE COOPERATIVE OR
7 ALLIANCE, OR OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH
8 CARE SERVICES THAT ARE WHOLLY OR PARTLY REIMBURSED BY OR ARE A
9 REQUIRED BENEFIT OF A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH TITLE
10 XIX OF THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR BY THE STATE.

11 (2) "STATE HEALTH PLAN" INCLUDES A PERSON THAT PROVIDES OR
12 CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR AN
13 ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

14 230C.

15 A PERSON MAY NOT:

16 (1) WILLFULLY DEFRAUD OR ATTEMPT TO DEFRAUD A STATE HEALTH
17 PLAN IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR HEALTH CARE
18 SERVICES;

19 (2) WILLFULLY OBTAIN OR ATTEMPT TO OBTAIN BY MEANS OF A FALSE
20 REPRESENTATION MONEY, PROPERTY, OR ANY THING OF VALUE IN CONNECTION
21 WITH THE DELIVERY OF OR PAYMENT FOR HEALTH CARE SERVICES THAT WHOLLY
22 OR PARTLY ARE REIMBURSED BY OR ARE A REQUIRED BENEFIT OF A STATE HEALTH
23 PLAN;

24 (3) WILLFULLY DEFRAUD OR ATTEMPT TO DEFRAUD A STATE HEALTH
25 PLAN OF THE RIGHT TO HONEST SERVICES; OR

26 (4) WITH THE INTENT TO DEFRAUD MAKE A FALSE REPRESENTATION
27 RELATING TO HEALTH CARE SERVICES OR A STATE HEALTH PLAN.

28 230D.

29 (A) A PERSON WHO HAS APPLIED FOR OR RECEIVED A BENEFIT OR PAYMENT
30 UNDER A STATE HEALTH PLAN FOR THE USE OF ANOTHER INDIVIDUAL MAY NOT
31 WILLFULLY CONVERT ALL OR ANY PART OF A STATE HEALTH PLAN BENEFIT OR
32 PAYMENT TO A USE THAT IS NOT FOR THE AUTHORIZED BENEFICIARY.

33 (B) A PERSON MAY NOT:

34 (1) PROVIDE TO ANOTHER INDIVIDUAL ITEMS OR SERVICES FOR WHICH
35 PAYMENT WHOLLY OR PARTLY IS OR MAY BE MADE FROM FEDERAL OR STATE FUNDS
36 UNDER A STATE HEALTH PLAN; AND

1 (2) SOLICIT, OFFER, MAKE, OR RECEIVE A KICKBACK OR BRIBE IN
2 CONNECTION WITH PROVIDING THOSE ITEMS OR SERVICES OR MAKING OR
3 RECEIVING A BENEFIT OR PAYMENT UNDER A STATE HEALTH PLAN.

4 (C) A PERSON MAY NOT SOLICIT, OFFER, MAKE, OR RECEIVE A REBATE OF A
5 FEE OR CHARGE FOR REFERRING ANOTHER INDIVIDUAL TO A THIRD PERSON TO
6 PROVIDE ITEMS OR SERVICES FOR WHICH PAYMENT WHOLLY OR PARTLY IS OR MAY
7 BE MADE FROM FEDERAL OR STATE FUNDS UNDER A STATE HEALTH PLAN.

8 230E.

9 A PERSON MAY NOT WILLFULLY MAKE, CAUSE TO BE MADE, INDUCE, OR
10 ATTEMPT TO INDUCE THE MAKING OF A FALSE REPRESENTATION WITH RESPECT TO
11 THE CONDITIONS OR OPERATION OF A FACILITY, INSTITUTION, OR STATE HEALTH
12 PLAN IN ORDER TO HELP THE FACILITY, INSTITUTION, OR STATE HEALTH PLAN
13 QUALIFY TO RECEIVE REIMBURSEMENT UNDER A STATE HEALTH PLAN.

14 230F.

15 (A) A PERSON MAY NOT WILLFULLY OBTAIN, ATTEMPT TO OBTAIN, OR AID
16 ANOTHER INDIVIDUAL IN OBTAINING OR ATTEMPTING TO OBTAIN A DRUG PRODUCT
17 OR MEDICAL CARE, THE PAYMENT OF ALL OR A PART OF WHICH IS OR MAY BE MADE
18 FROM FEDERAL OR STATE FUNDS UNDER A STATE HEALTH PLAN, BY:

19 (1) FRAUD, DECEIT, MISREPRESENTATION, OR CONCEALMENT;

20 (2) FORGERY OR ALTERATION OF A MEDICAL ASSISTANCE
21 PRESCRIPTION OR A PHARMACY ASSISTANCE PRESCRIPTION DISTRIBUTED UNDER A
22 STATE HEALTH PLAN;

23 (3) CONCEALMENT OF A MATERIAL FACT; OR

24 (4) USING A FALSE NAME OR A FALSE ADDRESS.

25 (B) A PERSON MAY NOT WILLFULLY POSSESS A MEDICAL ASSISTANCE CARD
26 OR A PHARMACY ASSISTANCE CARD DISTRIBUTED UNDER A STATE HEALTH PLAN OR
27 THE MEDICAL ASSISTANCE OR PHARMACY ASSISTANCE PROGRAM ESTABLISHED BY
28 TITLE 15 OF THE HEALTH - GENERAL ARTICLE WITHOUT THE AUTHORIZATION OF
29 THE PERSON TO WHOM THE CARD IS ISSUED.

30 230G.

31 (A) ANY HEALTH CARE PROVIDER THAT VIOLATES A PROVISION OF THIS
32 SUBHEADING IS LIABLE TO THE STATE FOR A CIVIL PENALTY NOT MORE THAN
33 TRIPLE THE AMOUNT OF THE OVERPAYMENT.

34 (B) THE CIVIL PENALTIES PROVIDED IN THIS SECTION ARE IN ADDITION TO
35 ANY OTHER PENALTIES PROVIDED BY LAW.

1 (C) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT A VICTIM'S RIGHT TO
2 RESTITUTION UNDER § 807 OF THIS ARTICLE.

3 230H.

4 (A) IF A VIOLATION OF THIS SUBHEADING RESULTS IN THE DEATH OF AN
5 INDIVIDUAL, A PERSON WHO VIOLATES A PROVISION OF THIS SUBHEADING IS
6 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
7 EXCEEDING LIFE OR A FINE NOT EXCEEDING \$200,000 OR BOTH.

8 (B) IF A VIOLATION OF THIS SUBHEADING RESULTS IN SERIOUS INJURY TO
9 AN INDIVIDUAL, A PERSON WHO VIOLATES A PROVISION OF THIS SUBHEADING IS
10 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
11 EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH.

12 (C) IF THE VALUE OF THE MONEY, HEALTH CARE SERVICES, OR OTHER GOODS
13 OR SERVICES INVOLVED IS \$500 OR MORE IN THE AGGREGATE, A PERSON WHO
14 VIOLATES A PROVISION OF THIS SUBHEADING IS GUILTY OF A FELONY AND ON
15 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE
16 NOT EXCEEDING \$100,000 OR BOTH.

17 (D) A PERSON WHO VIOLATES ANY OTHER PROVISION OF THIS SUBHEADING
18 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
19 NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

20 (E) (1) IN THIS SUBSECTION, "BUSINESS ENTITY" INCLUDES ASSOCIATION,
21 FIRM, INSTITUTION, PARTNERSHIP, COPARTNERSHIP, AND CORPORATION.

22 (2) A BUSINESS ENTITY THAT VIOLATES A PROVISION OF THIS
23 SUBHEADING IS SUBJECT TO A FINE NOT EXCEEDING:

24 (I) \$100,000 FOR EACH MISDEMEANOR; AND

25 (II) \$250,000 FOR EACH FELONY.

26 **Article 88A - Department of Human Resources**

27 62.

28 (a) [Every application for money, property, food stamps, medical care or other
29 assistance, under a social, health, or nutritional program based on need, financed in
30 whole or in part by the State of Maryland, and administered by the Department of
31 Human Resources, or the Department of Health and Mental Hygiene, or by the local
32 department of social services, whether under this or any other article in this Code,
33 shall be in writing and signed by the applicant. Any person who in making and
34 signing such an application makes a false or fraudulent statement with intent to
35 obtain any such money, property, food stamps, medical care or other assistance is
36 guilty of perjury and upon conviction therefor is subject to the penalties provided by
37 law for perjury.

1 (b) Beginning July 1, 1979, whenever a photoidentification card is issued to
 2 the recipient of any public assistance, the Department of Social Services shall cause a
 3 duplicate photoidentification print to be placed in the recipient's social service case
 4 file.

5 [(c)] (B) (1) The Department of Human Resources may request and obtain
 6 from any fiduciary institution doing business in the State any financial records that
 7 the Department determines are necessary to verify or confirm an individual's
 8 eligibility or ineligibility for public assistance.

9 (2) The Department of Human Resources shall adopt rules, procedures
 10 and reimbursement schedules necessary to compensate fiduciary institutions for
 11 compliance with this section.

12 [(d)] (C) (1) On or before July 1, 1985, the Department of Human Resources
 13 shall adopt rules and regulations governing procedures for requesting, obtaining, and
 14 examining financial records that the Department determines are necessary to verify
 15 or confirm an individual's eligibility or ineligibility for public assistance.

16 (2) The Secretary of Human Resources shall notify a fiduciary
 17 institution of those officers or employees of the Department of Human Resources
 18 authorized to request and receive financial records from the fiduciary institution.

19 (3) An officer, employee, or representative of any agency authorized to
 20 receive information under this section may not disclose any personally identifiable
 21 information obtained or maintained under this section.

22 **Article - Courts and Judicial Proceedings**

23 5-106.

24 (a) Except as provided by this section, a prosecution for a misdemeanor shall
 25 be instituted within 1 year after the offense was committed.

26 (k) A prosecution for [the] A MISDEMEANOR offense [of Medicaid fraud]
 27 under THE FRAUD - STATE HEALTH PLANS SUBHEADING IN Article 27[, § 230B of
 28 this] OF THE Code shall be instituted within 3 years after the offense was committed.

29 [(w)] A prosecution for a Medicaid offense under § 15-123.1 of the Health -
 30 General Article shall be instituted within 3 years after the offense was committed.]

31 [(x)] (W) A prosecution under Article 27, § 146(c) of the Code relating to
 32 computer crimes shall be instituted within 3 years after the offense was committed.

33 **Article - Health - General**

34 15-101.

35 (i) "Program" means the Maryland Medical Assistance Program.

1 15-123.

2 (a) (1) [(i)] In this [subsection] SECTION the following words have the
3 meanings indicated.

4 [(ii)] (2) "Convicted" includes being convicted after a plea of nolo
5 contendere.

6 [(iii)] (3) "Fraud" includes the commission of or an attempt or
7 conspiracy to commit [a crime such as] THE CRIMES OF concealment of medical
8 records, [embezzlement, false pretenses, larceny, larceny after trust, Medicaid fraud,
9 Medicaid health plan fraud] VIOLATION UNDER THE FRAUD - STATE HEALTH PLANS
10 SUBHEADING OF ARTICLE 27 OF THE CODE, false representations relating to Medicaid
11 health plans, misappropriation by a fiduciary, [or] AND theft.

12 [(iv)] "Person" means an individual, partnership, limited partnership,
13 or corporation, including a professional corporation formed under Title 5, Subtitle 1 of
14 the Corporations and Associations Article.]

15 [(2)] (B) A [person] HEALTH CARE PROVIDER who is convicted of fraud
16 in connection with the Program or a similar FEDERAL OR STATE program [of any
17 other state] is ineligible for further payment under the Program.

18 [(b)] (1) Any health care provider who is convicted of fraud, or who suffers a
19 judgment in favor of this State in a civil action based on fraud, in obtaining Medicaid
20 overpayments is liable to this State for triple the amount of the overpayment.

21 (2) In either a criminal or civil action, the court shall award the
22 appropriate sum in its sentence or judgment.]

23 [15-123.1.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Bodily injury" means:

26 (i) A cut, abrasion, bruise, burn, or disfigurement;

27 (ii) Illness;

28 (iii) Impairment of the function of a body part, organ, or mental
29 faculty;

30 (iv) Physical pain; or

31 (v) Any other injury to the body.

32 (3) "False representation" means:

33 (i) Knowingly and willfully concealing, falsifying, or omitting a
34 material fact; or

1 (ii) Knowingly and willfully making a materially false or
2 fraudulent statement or using a document that contains a materially false or
3 fraudulent statement.

4 (4) (i) "Health care service" means any health or medical care
5 procedure, good, or service that:

6 1. Provides testing, diagnosis, or treatment of human disease
7 or dysfunction; or

8 2. Dispenses drugs, medical devices, medical appliances, or
9 medical goods for the treatment of human disease or dysfunction.

10 (ii) "Health care service" includes any procedure, good, or service
11 that is a required benefit of the program.

12 (5) (i) "Medicaid health plan" means:

13 1. A state plan established by Title XIX of the Social Security
14 Act; or

15 2. A private health insurance carrier, health maintenance
16 organization, managed care organization, as defined in § 15-101(e) of this subtitle,
17 health care cooperative or alliance, or other person that provides or contracts to
18 provide health care services that, in whole or in part, are reimbursed by or are a
19 required benefit of a state plan established by Title XIX of the Social Security Act.

20 (ii) "Medicaid health plan" includes a person that provides or
21 contracts or subcontracts to provide health care services for an entity described in
22 subparagraph (i) of this paragraph.

23 (6) "Medicaid health plan fraud" means:

24 (i) Knowingly defrauding or attempting to defraud a Medicaid
25 health plan in connection with the delivery of or payment for health care services,
26 including defrauding or attempting to defraud a Medicaid health plan of the right to
27 honest services; or

28 (ii) Knowingly and willfully obtaining or attempting to obtain, by
29 means of a false representation, money, property, or any thing of value in connection
30 with the delivery of or payment for health care services that, in whole or in part, are
31 reimbursed by or are a required benefit of a Medicaid health plan.

32 (7) "Representation" includes an acknowledgment, certification, claim,
33 ratification, or report of demographic statistics, encounter data, enrollment claims,
34 financial information, health care services available or rendered, and the
35 qualifications of a person that is rendering health care or ancillary services.

36 (8) "Serious bodily injury" means a bodily injury that involves:

- 1 (i) A substantial risk of death;
- 2 (ii) Extreme physical pain;
- 3 (iii) Protracted and obvious disfigurement; or
- 4 (iv) Protracted loss or impairment of the function of a body part,
5 organ, or mental faculty.

6 (b) (1) A person may not commit Medicaid health plan fraud.

7 (2) If the value of the money, health care services, or other goods or
8 services involved is less than \$500 in the aggregate, a person who violates this
9 subsection is guilty of a misdemeanor and, on conviction, is subject to a fine of not
10 more than \$50,000 or imprisonment for not more than 3 years or both.

11 (3) If the value of the money, health care services, or other goods or
12 services involved is \$500 or more in the aggregate, a person who violates this
13 subsection is guilty of a felony and, on conviction, is subject to a fine of not more than
14 \$100,000 or imprisonment for not more than 5 years or both.

15 (c) (1) A person may not make false representations relating to Medicaid
16 health plans.

17 (2) A person who violates this subsection is guilty of a misdemeanor and,
18 on conviction, is subject to a fine of not more than \$50,000 or imprisonment for not
19 more than 3 years or both.

20 (d) (1) If a violation results in serious bodily injury to an individual, a
21 person who violates subsection (b) or (c) of this section is guilty of a felony and, on
22 conviction, is subject to a fine of not more than \$100,000 or imprisonment for not
23 more than 20 years or both.

24 (2) If a violation results in the death of an individual, a person who
25 violates subsection (b) or (c) of this section is guilty of a felony and, on conviction, is
26 subject to a fine of not more than \$200,000 or imprisonment for not more than life or
27 both.

28 (e) Unless a greater fine is authorized under this section, a person that is not
29 an individual and that violates subsection (b) or (c) of this section is subject to a fine
30 of not more than:

31 (1) \$100,000 for each misdemeanor; and

32 (2) \$250,000 for each felony.

33 (f) A person who violates subsection (b) or (c) of this section may be required
34 to make full restitution of the money, or the value of the health care services or other
35 goods or services unlawfully received.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.