

SENATE BILL 322

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

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 14, 2000

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CHAPTER \_\_\_\_\_

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  
5 knowingly and willfully defrauding or attempting to defraud a State health  
6 plan; prohibiting a person from knowingly and willfully obtaining or attempting  
7 to obtain by means of a false representation money, property, or any thing of  
8 value under certain circumstances; prohibiting a person from knowingly and  
9 willfully defrauding or attempting to defraud a State health plan of the right to  
10 honest services; prohibiting a person with the intent to defraud from making a  
11 false representation relating to health care services or a State health plan;  
12 prohibiting a certain person from knowingly and willfully converting all or any  
13 part of a State health plan benefit or payment to a use that is not for the  
14 authorized beneficiary; prohibiting a person from providing to another  
15 individual items or services for which certain payment is or may be made from  
16 certain funds and solicit, offer, make, or receive a kickback or bribe in connection  
17 with providing certain items or services or making or receiving a benefit or  
18 payment under the State health plan; prohibiting a person from soliciting,  
19 offering, making, or receiving a rebate of a fee or charge for referring another  
20 individual to a third person to provide items or services for which certain  
21 payment is made; prohibiting a person from knowingly and willfully making a  
22 false representation with respect to conditions or operations of a facility,  
23 institution, or State health plan in order to help the facility, institution, or State  
24 health plan qualify to receive certain reimbursement; prohibiting a person from  
25 knowingly and willfully obtaining or aiding another individual in obtaining by  
26 certain acts a drug product or medical care the payment for all or part of which  
27 is made from certain funds; prohibiting an unauthorized person from knowingly  
28 and willfully possessing certain medical or pharmacy assistance cards; altering

1 the application of certain welfare fraud provisions; providing for a certain  
2 statute of limitations for certain misdemeanor offenses; limiting a certain  
3 prohibition on further payments under a certain medical program to apply only  
4 to health care providers; transferring certain welfare application perjury  
5 provisions; establishing certain criminal and civil penalties; defining certain  
6 terms; making stylistic changes; and generally relating to State health plan  
7 fraud.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 230A  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 1999 Supplement)

13 BY repealing  
14 Article 27 - Crimes and Punishments  
15 Section 230B through 230D  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1999 Supplement)

18 BY adding to  
19 Article 27 - Crimes and Punishments  
20 Section 230B through 230H, inclusive, to be under the amended subheading  
21 "Fraud - State Health Plans"  
22 Annotated Code of Maryland  
23 (1996 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article 88A - Department of Human Resources  
26 Section 62  
27 Annotated Code of Maryland  
28 (1998 Replacement Volume and 1999 Supplement)

29 BY repealing and reenacting, without amendments,  
30 Article - Courts and Judicial Proceedings  
31 Section 5-106(a)  
32 Annotated Code of Maryland  
33 (1998 Replacement Volume and 1999 Supplement)

34 BY repealing and reenacting, with amendments,  
35 Article - Courts and Judicial Proceedings  
36 Section 5-106(k) and (x)  
37 Annotated Code of Maryland  
38 (1998 Replacement Volume and 1999 Supplement)

1 BY repealing  
2 Article - Courts and Judicial Proceedings  
3 Section 5-106(w)  
4 Annotated Code of Maryland  
5 (1998 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, without amendments,  
7 Article - Health - General  
8 Section 15-101(i)  
9 Annotated Code of Maryland  
10 (1994 Replacement Volume and 1999 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Health - General  
13 Section 15-123  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1999 Supplement)

16 BY repealing  
17 Article - Health - General  
18 Section 15-123.1  
19 Annotated Code of Maryland  
20 (1994 Replacement Volume and 1999 Supplement)

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

23 **Article 27 - Crimes and Punishments**

24 230A.

25 (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A VIOLATION OF §§  
26 230B THROUGH 230F OF THIS ARTICLE.

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

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

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

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

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

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

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

19                                  Fraud - [Medical Assistance] STATE HEALTH PLANS

20 [230B.

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

22            (b)    "Medicaid fraud" means:

23            (1)    Knowingly and wilfully making or causing to be made any false  
24 statement or representation of a material fact in any application for any benefit or  
25 payment under a State plan established by Title XIX of the Social Security Act of  
26 1939;

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

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

37            (4)    Having made application to receive or having received any of those  
38 benefits or payments for the use and benefit of another; and knowingly and wilfully

1 converting any part of the benefit or payment to a use other than for the use and  
2 benefit of that other person;

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

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

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

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

19 (ii) Forgery or alteration of a medical assistance or pharmacy  
20 assistance prescription; or

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

23 (8) Unauthorized possession of a blank medical assistance prescription;  
24 or

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

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

30 [230C.

31 It is unlawful to commit Medicaid fraud.]

32 [230D.

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

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

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

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

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

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

10 230B.

11 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) "FALSE REPRESENTATION" MEANS:

14 (1) ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY CONCEALING,  
15 FALSIFYING, OR OMITTING A MATERIAL FACT; OR

16 (2) ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY MAKING A MATERIALLY  
17 FALSE OR FRAUDULENT STATEMENT OR ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY  
18 USING A DOCUMENT THAT CONTAINS A STATEMENT OF MATERIAL FACT THAT THE  
19 USER KNOWS TO BE FALSE OR FRAUDULENT.

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

22 (I) PROVIDE TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN  
23 DISEASE OR DYSFUNCTION; OR

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

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

28 (D) "REPRESENTATION" INCLUDES AN ACKNOWLEDGMENT, CERTIFICATION,  
29 CLAIM, RATIFICATION, REPORT OF DEMOGRAPHIC STATISTICS, ENCOUNTER DATA,  
30 ENROLLMENT CLAIMS, FINANCIAL INFORMATION, HEALTH CARE SERVICES  
31 AVAILABLE OR RENDERED, AND QUALIFICATIONS OF A PERSON RENDERING HEALTH  
32 CARE OR ANCILLARY SERVICES.

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

34 (1) CREATES A SUBSTANTIAL RISK OF DEATH;

1 (2) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED  
2 DISFIGUREMENT;

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

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

7 (5) INVOLVES EXTREME PHYSICAL PAIN.

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

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

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

12 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH  
13 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN §  
14 15-101 OF THE HEALTH - GENERAL ARTICLE, HEALTH CARE COOPERATIVE OR  
15 ALLIANCE, OR OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH  
16 CARE SERVICES THAT ARE WHOLLY OR PARTLY REIMBURSED BY OR ARE A  
17 REQUIRED BENEFIT OF A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH TITLE  
18 XIX OF THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR BY THE STATE.

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

22 230C.

23 A PERSON MAY NOT:

24 (1) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ DEFRAUD OR ATTEMPT TO  
25 DEFRAUD A STATE HEALTH PLAN IN CONNECTION WITH THE DELIVERY OF OR  
26 PAYMENT FOR HEALTH CARE SERVICES;

27 (2) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ OBTAIN OR ATTEMPT TO  
28 OBTAIN BY MEANS OF A FALSE REPRESENTATION MONEY, PROPERTY, OR ANY THING  
29 OF VALUE IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR HEALTH CARE  
30 SERVICES THAT WHOLLY OR PARTLY ARE REIMBURSED BY OR ARE A REQUIRED  
31 BENEFIT OF A STATE HEALTH PLAN;

32 (3) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ DEFRAUD OR ATTEMPT TO  
33 DEFRAUD A STATE HEALTH PLAN OF THE RIGHT TO HONEST SERVICES; OR

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

1 230D.

2 (A) A PERSON WHO HAS APPLIED FOR OR RECEIVED A BENEFIT OR PAYMENT  
3 UNDER A STATE HEALTH PLAN FOR THE USE OF ANOTHER INDIVIDUAL MAY NOT  
4 ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ CONVERT ALL OR ANY PART OF A STATE  
5 HEALTH PLAN BENEFIT OR PAYMENT TO A USE THAT IS NOT FOR THE AUTHORIZED  
6 BENEFICIARY.

7 (B) A PERSON MAY NOT:

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

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

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

18 230E.

19 A PERSON MAY NOT ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ MAKE, CAUSE TO  
20 BE MADE, INDUCE, OR ATTEMPT TO INDUCE THE MAKING OF A FALSE  
21 REPRESENTATION WITH RESPECT TO THE CONDITIONS OR OPERATION OF A  
22 FACILITY, INSTITUTION, OR STATE HEALTH PLAN IN ORDER TO HELP THE FACILITY,  
23 INSTITUTION, OR STATE HEALTH PLAN QUALIFY TO RECEIVE REIMBURSEMENT  
24 UNDER A STATE HEALTH PLAN.

25 230F.

26 (A) A PERSON MAY NOT ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ OBTAIN,  
27 ATTEMPT TO OBTAIN, OR AID ANOTHER INDIVIDUAL IN OBTAINING OR ATTEMPTING  
28 TO OBTAIN A DRUG PRODUCT OR MEDICAL CARE, THE PAYMENT OF ALL OR A PART  
29 OF WHICH IS OR MAY BE MADE FROM FEDERAL OR STATE FUNDS UNDER A STATE  
30 HEALTH PLAN, BY:

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

32 (2) FORGERY OR ALTERATION OF A MEDICAL ASSISTANCE  
33 PRESCRIPTION OR A PHARMACY ASSISTANCE PRESCRIPTION DISTRIBUTED UNDER A  
34 STATE HEALTH PLAN;

35 (3) CONCEALMENT OF A MATERIAL FACT; OR

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



1 (B) A PERSON MAY NOT ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY POSSESS A  
2 MEDICAL ASSISTANCE CARD OR A PHARMACY ASSISTANCE CARD DISTRIBUTED  
3 UNDER A STATE HEALTH PLAN OR THE MEDICAL ASSISTANCE OR PHARMACY  
4 ASSISTANCE PROGRAM ESTABLISHED BY TITLE 15 OF THE HEALTH - GENERAL  
5 ARTICLE WITHOUT THE AUTHORIZATION OF THE PERSON TO WHOM THE CARD IS  
6 ISSUED.

7 230G.

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

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

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

15 230H.

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

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

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

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

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

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

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

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

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

2 62.

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

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

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

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

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

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

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

34 **Article - Courts and Judicial Proceedings**

35 5-106.

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

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

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

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

8 **Article - Health - General**

9 15-101.

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

11 15-123.

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

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

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

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

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

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

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

33 [15-123.1.

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

- 1 (2) "Bodily injury" means:
- 2 (i) A cut, abrasion, bruise, burn, or disfigurement;
- 3 (ii) Illness;
- 4 (iii) Impairment of the function of a body part, organ, or mental  
5 faculty;
- 6 (iv) Physical pain; or
- 7 (v) Any other injury to the body.
- 8 (3) "False representation" means:
- 9 (i) Knowingly and willfully concealing, falsifying, or omitting a  
10 material fact; or
- 11 (ii) Knowingly and willfully making a materially false or  
12 fraudulent statement or using a document that contains a materially false or  
13 fraudulent statement.
- 14 (4) (i) "Health care service" means any health or medical care  
15 procedure, good, or service that:
- 16 1. Provides testing, diagnosis, or treatment of human disease  
17 or dysfunction; or
- 18 2. Dispenses drugs, medical devices, medical appliances, or  
19 medical goods for the treatment of human disease or dysfunction.
- 20 (ii) "Health care service" includes any procedure, good, or service  
21 that is a required benefit of the program.
- 22 (5) (i) "Medicaid health plan" means:
- 23 1. A state plan established by Title XIX of the Social Security  
24 Act; or
- 25 2. A private health insurance carrier, health maintenance  
26 organization, managed care organization, as defined in § 15-101(e) of this subtitle,  
27 health care cooperative or alliance, or other person that provides or contracts to  
28 provide health care services that, in whole or in part, are reimbursed by or are a  
29 required benefit of a state plan established by Title XIX of the Social Security Act.
- 30 (ii) "Medicaid health plan" includes a person that provides or  
31 contracts or subcontracts to provide health care services for an entity described in  
32 subparagraph (i) of this paragraph.
- 33 (6) "Medicaid health plan fraud" means:

1 (i) Knowingly defrauding or attempting to defraud a Medicaid  
2 health plan in connection with the delivery of or payment for health care services,  
3 including defrauding or attempting to defraud a Medicaid health plan of the right to  
4 honest services; or

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

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

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

14 (i) A substantial risk of death;

15 (ii) Extreme physical pain;

16 (iii) Protracted and obvious disfigurement; or

17 (iv) Protracted loss or impairment of the function of a body part,  
18 organ, or mental faculty.

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

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

24 (3) If the value of the money, health care services, or other goods or  
25 services involved is \$500 or more in the aggregate, a person who violates this  
26 subsection is guilty of a felony and, on conviction, is subject to a fine of not more than  
27 \$100,000 or imprisonment for not more than 5 years or both.

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

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

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

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

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

8           (1)       \$100,000 for each misdemeanor; and

9           (2)       \$250,000 for each felony.

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

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