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CS/HB 515

2014 Legislature

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

20
21 Be It Enacted by the Legislature of the State of Florida:
22

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

26 414.39 Fraud.—

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27 (1) Any person who knowingly:
 28 (a) Fails, by false statement, misrepresentation,
 29 impersonation, or other fraudulent means, to disclose a material
 30 fact used in making a determination as to such person's
 31 qualification to receive public assistance under any state or
 32 federally funded assistance program;
 33 (b) Fails to disclose a change in circumstances in order
 34 to obtain or continue to receive any such public assistance to
 35 which he or she is not entitled or in an amount larger than that
 36 to which he or she is entitled; or
 37 (c) Aids and abets another person in the commission of any
 38 such act,
 39
 40 commits ~~is guilty of~~ a crime and shall be punished as provided
 41 in subsection (5).
 42 (2) Any person who knowingly:
 43 (a) Uses, transfers, acquires, traffics, alters, forges,
 44 or possesses; or~~or~~
 45 (b) Attempts to use, transfer, acquire, traffic, alter,
 46 forge, or possess; or~~or~~
 47 (c) Aids and abets another person in the use, transfer,
 48 acquisition, traffic, alteration, forgery, or possession of,
 49
 50 a food assistance identification card, an authorization,
 51 including, but not limited to, an electronic authorization, for
 52 the expenditure of food assistance benefits, a certificate of

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53 eligibility for medical services, or a Medicaid identification
 54 card in any manner not authorized by law commits a crime and
 55 shall be punished as provided in subsection (5).

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

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

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

74
 75 commits ~~is guilty of~~ a crime and shall be punished as provided
 76 in subsection (5).

77 (4) Any person who:

78 (a) Knowingly files, attempts to file, or aids and abets

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79 in the filing of, a claim for services to a recipient of public
80 assistance under any state or federally funded public assistance
81 program for services that were not rendered; knowingly files a
82 false claim or a claim for nonauthorized items or services under
83 such a program; or knowingly bills the recipient of public
84 assistance under such a program, or his or her family, for an
85 amount in excess of that provided for by law or regulation;

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

89 (c) In any way knowingly receives, attempts to receive, or
90 aids and abets in the receipt of, unauthorized payment or other
91 unauthorized public assistance or authorization or
92 identification to obtain public assistance as provided herein,
93
94 commits ~~is guilty of~~ a crime and shall be punished as provided
95 in subsection (5).

96 (5) (a) If the value of the public assistance or
97 identification wrongfully received, retained, misappropriated,
98 sought, or used is less than an aggregate value of \$200 in any
99 12 consecutive months, such person commits a misdemeanor of the
100 first degree, punishable as provided in s. 775.082 or s.
101 775.083.

102 (b) If the value of the public assistance or
103 identification wrongfully received, retained, misappropriated,
104 sought, or used is of an aggregate value of \$200 or more, but

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105 less than \$20,000 in any 12 consecutive months, such person
 106 commits a felony of the third degree, punishable as provided in
 107 s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

130 (11) (a) Subject to availability of funds, the department

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131 or the director of the Office of Public Benefits Integrity
 132 shall, unless the person declines the reward, pay a reward to a
 133 person who furnishes and reports original information relating
 134 to a violation of the state's public assistance fraud laws if
 135 the information and report:

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

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

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

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

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

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

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

154 414.095 Determining eligibility for temporary cash
 155 assistance.—

156 (14) PROHIBITIONS AND RESTRICTIONS.—

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

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

173 Section 3. For the 2014-2015 fiscal year, the sum of
174 \$171,604 in recurring funds and \$4,736 in nonrecurring funds
175 from the General Revenue Fund and \$171,605 in recurring funds
176 and \$4,737 in nonrecurring funds from the Federal Grants Trust
177 Fund are appropriated to the Department of Children and
178 Families, and one full-time equivalent position with associated
179 salary rate of 32,698 are authorized, for the purpose of
180 implementing the cash rewards process provisions of this act.

181 Section 4. For the 2014-2015 fiscal year, the sum of
182 \$214,135 in recurring funds and \$17,785 in nonrecurring funds

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183 are appropriated from the Insurance Regulatory Trust Fund to the
184 Department of Financial Services, and five full-time equivalent
185 positions with associated salary rate of 114,040 are authorized,
186 for the purpose of implementing the cash rewards process
187 provisions of this act.

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