

1 SB152
2 134502-2
3 By Senators Orr, Dial, Brewbaker, Ward, Taylor and Fielding
4 RFD: Finance and Taxation General Fund
5 First Read: 07-FEB-12

1 SB152

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to crimes and offenses; to prohibit certain
12 conduct in obtaining public assistance under any state or
13 federally funded public assistance program; to provide
14 penalties; to amend Section 13A-8-10 of the Code of Alabama
15 1975, relating to theft of services, to remove the requirement
16 that the person committing the crime knew the services were
17 available only for compensation; and in connection therewith
18 to have as its purpose or effect the requirement of a new or
19 increased expenditure of local funds within the meaning of
20 Amendment 621 of the Constitution of Alabama of 1901, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) It shall be unlawful for any person
25 to knowingly do any of the following:

1 (1) Fail, by false statement, misrepresentation,
2 impersonation, or other fraudulent means, to disclose a
3 material fact used in making a determination as to the
4 qualification of the person to receive public assistance under
5 any state or federally funded program.

6 (2) Fail to disclose a change in circumstances in
7 order to obtain or continue to receive any public assistance
8 to which he or she is not entitled or in an amount larger than
9 that to which he or she is entitled.

10 (3) Aid and abet another person in the commission of
11 the prohibitions enumerated in subdivisions (1) and (2).

12 (4) Use, transfer, acquire, traffic, alter, forge,
13 possess, attempt to use, attempt to transfer, attempt to
14 acquire, attempt to traffic, attempt to alter, attempt to
15 forge, attempt to possess, or aid and abet another person in
16 the use, transfer, acquisition, traffic, alteration, forgery,
17 or possession of a food assistance identification card, an
18 authorization, including, but not limited to, an electronic
19 authorization, for the expenditure of food assistance
20 benefits, a certificate of eligibility for medical services,
21 or a Medicaid identification card in any manner not authorized
22 by law.

23 (5) File, attempt to file, or aid and abet in the
24 filing of a claim for services to a recipient of public
25 assistance under any state or federally funded public
26 assistance program for services that were not rendered.

1 (6) File a false claim or a claim for nonauthorized
2 items or services under any state or federally funded public
3 assistance program.

4 (7) Bill the recipient of public assistance under
5 any state or federally funded public assistance program, or
6 his or her family, for an amount in excess of that provided
7 for by law or regulation.

8 (8) Fail to credit the state or its agents for
9 payments received from Social Security, insurance, or other
10 sources.

11 (9) In any way receive, attempt to receive, or aid
12 and abet in the receipt of unauthorized payments or other
13 unauthorized public assistance or authorization or
14 identification to obtain public assistance under any state or
15 federally funded public assistance program.

16 (b) It shall be unlawful for any person having
17 duties in the administration of a state or federally funded
18 public assistance program or in the distribution of public
19 assistance or with authorization or identification to obtain
20 public assistance under a state or federally funded public
21 assistance program to do any of the following:

22 (1) Fraudulently misappropriate, attempt to
23 misappropriate, knowingly fail to disclose fraudulent
24 activity, or aid and abet in the misappropriation of a food
25 assistance, an authorization for food assistance, a food
26 assistance identification card, a certificate of eligibility

1 for prescribed medicine, a Medicaid identification card, or
2 public assistance from any other state or federally funded
3 program with which he or she has been entrusted or of which he
4 or she has gained possession by virtue of his or her position.

5 (2) Knowingly misappropriate, attempt to
6 misappropriate, or aid and abet in the misappropriation of
7 funds given in exchange for food assistance program benefits
8 or for any form of food assistance benefits authorization.

9 (c) (1) A person who violates this section in an
10 aggregate value of two hundred dollars (\$200) or more in any
11 12 consecutive months shall be guilty of a Class C felony.

12 (2) A person who violates this section in an amount
13 less than the aggregate value of two hundred dollars (\$200) in
14 any 12 consecutive months shall be guilty of a Class A
15 misdemeanor.

16 (d) The value of a food assistance authorization
17 benefit shall be equal to the cash or exchange value
18 unlawfully obtained by the fraudulent act committed in
19 violation of this section.

20 (e) Public assistance fraud for the purposes of this
21 section shall include the introduction of fraudulent records
22 into a computer system, the unauthorized use of computer
23 facilities, the intentional or deliberate alteration or
24 destruction of computerized information or files, and the
25 stealing of financial instruments, data, and other assets.

1 (f) Repayment of public assistance benefits or
2 services or return of authorization or identification
3 wrongfully obtained is not a defense to, or ground for
4 dismissal of, criminal charges brought under this section.

5 (g) The introduction into evidence of a paid state
6 warrant to the order of the defendant is prima facie evidence
7 that the defendant did receive public assistance from the
8 state.

9 (h) The introduction into evidence of a transaction
10 history generated by a personal identification number (PIN)
11 establishing a purchase or withdrawal by electronic benefit
12 transfer is prima facie evidence that the identified recipient
13 received public assistance from the state.

14 (i) All records relating to investigations of public
15 assistance fraud under this act in the custody of any state
16 department are available for examination by law enforcement
17 and are admissible into evidence in proceedings brought under
18 this section as business records.

19 (j) The Department of Human Resources, the Medicaid
20 Agency, the Housing Finance Authority, and any other state
21 agency that administers public assistance shall create an
22 error-prone or fraud-prone case profile within its public
23 assistance information system and shall screen each
24 application for public assistance, including food assistance,
25 Medicaid, temporary cash assistance, and public housing,
26 against the profile to identify cases that have a potential

1 for error or fraud. Each case identified as having a potential
2 for error or fraud shall be subjected to preeligibility fraud
3 screening. The Department of Human Resources may utilize the
4 Income and Eligibility Verification System to comply with the
5 criteria of this section to address fraud.

6 (k)(1) Any person providing service for which
7 compensation is paid under any state or federally funded
8 public assistance program who solicits, requests, or receives,
9 either actually or constructively, any payment or contribution
10 through a payment, assessment, gift, devise, bequest, or other
11 means, whether directly or indirectly, from a recipient of
12 public assistance from a public assistance program, or from
13 the family of the recipient, shall notify the Department of
14 Human Resources, on a form provided by the department, of the
15 amount of the payment or contribution and of any other
16 information as specified by the department, within 10 days
17 after the receipt of the payment or contribution, or if the
18 payment or contribution is to become effective at some time in
19 the future, within 10 days of the consummation of the
20 agreement to make the payment or contribution.

21 (2) Failure to notify the Department of Human
22 Resources within the prescribed time is a Class A misdemeanor.

23 Section 2. Section 13A-8-10 of the Code of Alabama
24 1975, is amended to read as follows:

25 "§13A-8-10.

1 "(a) A person commits the crime of theft of services
2 if:

3 "(1) He intentionally obtains services ~~known by him~~
4 ~~to be available only for compensation~~ by deception, threat,
5 false token or other means to avoid payment for the services;
6 or

7 "(2) Having control over the disposition of services
8 of others to which he is not entitled, he knowingly diverts
9 those services to his own benefit or to the benefit of another
10 not entitled thereto.

11 "(b) "Services" includes but is not necessarily
12 limited to labor, professional services, transportation,
13 telephone or other public services, accommodation in motels,
14 hotels, restaurants or elsewhere, admission to exhibitions,
15 computer services and the supplying of equipment for use.

16 "(c) Where compensation for services is ordinarily
17 paid immediately upon the rendering of them, as in the case of
18 motels, hotels, restaurants and the like, absconding without
19 payment or bona fide offer to pay is prima facie evidence
20 under subsection (a) that the services were obtained by
21 deception.

22 "(d) If services are obtained under subdivision (a)
23 (1) from a hotel, motel, inn, restaurant or cafe, no
24 prosecution can be commenced after 120 days from the time of
25 the offense."

1 Section 3. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 4. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Finance and Taxation General Fund ...	07-FEB-12
Read for the second time and placed on the calen- dar.....	16-FEB-12
Read for the third time and passed as amended	20-MAR-12

Yeas 31
Nays 0

Patrick Harris
Secretary