

1 HB610
2 131193-1
3 By Representative Ball
4 RFD: State Government
5 First Read: 05-MAY-11

8 SYNOPSIS: Existing law prohibits the use of fraudulent
9 means to establish eligibility for public housing
10 and Medicaid.

11 This bill would prohibit certain fraudulent
12 conduct in obtaining public assistance under any
13 state or federally funded public assistance program
14 and would provide penalties.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to public assistance fraud; to prohibit certain conduct in obtaining public assistance under any state or federally funded public assistance program; to provide penalties; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

(1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to the

1 qualification of the person to receive public assistance under
2 any state or federally funded program.

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

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

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

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

24 (6) File a false claim or a claim for nonauthorized
25 items or services under any state or federally funded public
26 assistance program.

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

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

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

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

(1) Fraudulently misappropriate, attempt to misappropriate, knowingly fail to disclose fraudulent activity, or aid and abet in the misappropriation of a 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.

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

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

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

Section 2. (a) The value of a food assistance authorization benefit shall be equal to the cash or exchange value unlawfully obtained by the fraudulent act committed in violation of this act.

(b) Public assistance fraud for the purposes of this act shall include 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.

(c) Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this act.

(d) The introduction into evidence of a paid state warrant to the order of the defendant is *prima facie* evidence

1 that the defendant did receive public assistance from the
2 state.

3 (e) The introduction into evidence of a transaction
4 history generated by a personal identification number (PIN)
5 establishing a purchase or withdrawal by electronic benefit
6 transfer is *prima facie* evidence that the identified recipient
7 received public assistance from the state.

8 (f) All records relating to investigations of public
9 assistance fraud under this act in the custody of any state
10 department are available for examination by law enforcement
11 and are admissible into evidence in proceedings brought under
12 this act as business records.

13 (g) The Department of Human Resources, the Medicaid
14 Agency, the Housing Finance Authority, and any other state
15 agency that administers public assistance shall create an
16 error-prone or fraud-prone case profile within its public
17 assistance information system and shall screen each
18 application for public assistance, including food assistance,
19 Medicaid, temporary cash assistance, and public housing,
20 against the profile to identify cases that have a potential
21 for error or fraud. Each case identified as having a potential
22 for error or fraud shall be subjected to preeligibility fraud
23 screening.

24 Section 3. (a) (1) Any person providing service for
25 which compensation is paid under any state or federally funded
26 public assistance program who solicits, requests, or receives,
27 either actually or constructively, any payment or contribution

1 through a payment, assessment, gift, devise, bequest, or other
2 means, whether directly or indirectly, from a recipient of
3 public assistance from a public assistance program, or from
4 the family of the recipient, shall notify the Department of
5 Human Resources, on a form provided by the department, of the
6 amount of the payment or contribution and of any other
7 information as specified by the department, within 10 days
8 after the receipt of the payment or contribution, or if the
9 payment or contribution is to become effective at some time in
10 the future, within 10 days of the consummation of the
11 agreement to make the payment or contribution.

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

14 Section 4. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 5. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.