

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 304
Second Edition Engrossed 4/5/99
Committee Substitute Favorable 4/12/99

Short Title: Child Care Subsidy Fraud/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE CRIMINAL PENALTIES FOR FRAUDULENT
3 MISREPRESENTATION INVOLVING CHILD CARE SUBSIDIES AND TO
4 PROVIDE COUNTIES A FINANCIAL INCENTIVE TO INVESTIGATE AND
5 PURSUE FRAUD IN CHILD CARE PAYMENTS.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 110 of the General Statutes is amended by adding a new
8 section to read:

9 "**§ 110-107. Fraudulent misrepresentation.**

10 (a) A person, whether a provider or recipient of child care subsidies or someone
11 claiming to be a provider or recipient of child care subsidies, commits the offense of
12 fraudulent misrepresentation when both of the following occur:

13 (1) With the intent to deceive, that person makes a false statement or
14 representation regarding a material fact, or fails to disclose a material
15 fact.

16 (2) As a result of the false statement or representation or the omission, that
17 person obtains, attempts to obtain, or continues to receive a child care
18 subsidy for himself or herself or for another person.

1 (b) If the child care subsidy is not more than one thousand dollars (\$1,000), the
2 person is guilty of a Class 1 misdemeanor. If the child care subsidy is more than one
3 thousand dollars (\$1,000), the person is guilty of a Class I felony.

4 (c) As used in this section:

5 (1) 'Child care subsidy' means the use of public funds to pay for day care
6 services for children.

7 (2) 'Person' means an individual, association, consortium, corporation, body
8 politic, partnership, or other group, entity, or organization."

9 Section 2. Chapter 110 of the General Statutes is amended by adding a new
10 section to read:

11 **"§ 110-108. Financial incentives for counties to investigate and pursue alleged child**
12 **care fraud.**

13 The Department of Health and Human Services shall allow each local purchasing
14 agency to retain as an incentive bonus the actual amount of child care fraud and
15 overpayment claims collected by the local purchasing agency. Incentive bonuses under
16 this section shall be used by the agency for the purchase of subsidized child care or to
17 enhance and improve program integrity. The agency shall use at least seventy-five
18 percent (75%) of the incentive bonus funds under this section for the purchase of
19 subsidized child care. The agency shall not use more than twenty-five percent (25%) of
20 the incentive bonus funds under this section for program integrity. On or before October
21 1 each year, each agency shall report to the Department of Health and Human Services on
22 the use of the incentive bonuses under this section during the previous fiscal year. This
23 section does not apply to overpayments due to administrative errors of local purchasing
24 agency staff."

25 Section 3. G.S. 108A-39 reads as rewritten:

26 **"§ 108A-39. Fraudulent misrepresentation.**

27 (a) Any person whether provider or recipient, or person representing himself as
28 such, who willfully and knowingly and with intent to deceive makes a false statement or
29 representation or who fails to disclose a material fact and as a result of making a false
30 statement or representation or failing to disclose a material fact obtains, for himself or
31 another person, attempts to obtain for himself or another person, or continues to receive
32 or enables another person to continue to receive public assistance in the amount of not
33 more than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) is guilty of a Class
34 1 misdemeanor.

35 (b) Any person, whether provider or recipient, or person representing himself as
36 such who willfully and knowingly with the intent to deceive makes a false statement or
37 representation or fails to disclose a material fact and as a result of making a false
38 statement or representation or failing to disclose a material fact, obtains for himself or
39 another person, attempts to obtain for himself or another person, or continues to receive
40 or enables another person to continue to receive public assistance in an amount of more
41 than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) is guilty of a Class I
42 felony.

1 (c) As used in this section the word "person" means person, association,
2 consortium, corporation, body politic, partnership, or other group, entity, or
3 organization."

4 Section 4. G.S. 108A-53 reads as rewritten:

5 **"§ 108A-53. Fraudulent misrepresentation.**

6 (a) Any person, whether provider or recipient or person representing himself as
7 such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain
8 by means of making a willfully false statement or representation or by impersonation or
9 by failing to disclose material facts or in any manner not authorized by this Part or the
10 regulations issued pursuant thereto, transfers with intent to defraud any food stamps or
11 authorization cards to which that person is not entitled in the amount of ~~four hundred~~
12 ~~dollars (\$400.00) or less~~ not more than one thousand dollars (\$1,000) shall be guilty of a
13 Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets
14 any person to obtain by means of making a willfully false statement or representation or
15 by impersonation or by failing to disclose material facts or in any manner not authorized
16 by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any
17 food stamps or authorization cards to which he is not entitled in an amount more than ~~four~~
18 ~~hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) shall be guilty of a Class I felony.

19 (b) Whoever presents, or causes to be presented, food stamps or authorization
20 cards for payment or redemption, knowing the same to have been received, transferred, or
21 used in any manner in violation of the provisions of this Part or the regulations issued
22 pursuant to this Part shall be guilty of a Class 1 misdemeanor.

23 (c) Whoever receives any food stamps for any consumable item knowing that such
24 food stamps were procured fraudulently under subsections (a) and/or (b) of this section
25 shall be guilty of a Class 1 misdemeanor.

26 (d) Whoever receives any food stamps for any consumable item whose exchange
27 is prohibited by the United States Department of Agriculture shall be guilty of a Class 1
28 misdemeanor."

29 Section 5. G.S. 108A-64 reads as rewritten:

30 **"§ 108A-64. Medical assistance recipient fraud.**

31 (a) It shall be unlawful for any person to knowingly and willfully and with intent
32 to defraud make or cause to be made a false statement or representation of a material fact
33 in an application for assistance under this Part, or intended for use in determining
34 entitlement to such assistance.

35 (b) It shall be unlawful for any applicant, recipient or person acting on behalf of
36 such applicant or recipient to knowingly and willfully and with intent to defraud, conceal
37 or fail to disclose any condition, fact or event affecting such applicant's or recipient's
38 initial or continued entitlement to receive assistance under this Part.

39 (b1) It is unlawful for any person knowingly, willingly, and with intent to defraud,
40 to obtain or attempt to obtain, or to assist, aid, or abet another person, either directly or
41 indirectly, to obtain money, services, or any other thing of value to which the person is
42 not entitled as a recipient under this Part, or otherwise to deliberately misuse a Medicaid
43 identification card. This misuse includes the sale, alteration, or lending of the Medicaid

1 identification card to others for services and the use of the card by someone other than the
2 recipient to receive or attempt to receive Medicaid program coverage for services
3 rendered to that individual.

4 Proof of intent to defraud does not require proof of intent to defraud any particular
5 person.

6 (c) (1) A person who violates a provision of this section shall be
7 guilty of a Class I felony if the value of the assistance wrongfully
8 obtained is more than ~~four hundred dollars (\$400.00)~~ one thousand
9 dollars (\$1,000).

10 (2) A person who violates a provision of this section shall be guilty of a
11 Class 1 misdemeanor if the value of the assistance wrongfully obtained
12 is ~~four hundred dollars (\$400.00) or less~~ not more than one thousand
13 dollars (\$1,000).

14 (d) For purposes of this section the word "person" includes any natural person,
15 association, consortium, corporation, body politic, partnership, or other group, entity or
16 organization."

17 Section 6. Sections 1, 3, 4, and 5 of this act become effective December 1,
18 1999, and apply to offenses committed on or after that date. The remainder of this act
19 becomes effective July 1, 1999.