

12101015D

SENATE BILL NO. 24

Offered January 11, 2012

Prefiled December 28, 2011

A BILL to amend and reenact §§ 18.2-186.2, 32.1-321.4, 63.2-522, and 63.2-523 of the Code of Virginia, relating to entitlement fraud; penalties.

Patron—Stuart

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-186.2, 32.1-321.4, 63.2-522, and 63.2-523 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-186.2. False statements or failure to disclose material facts in order to obtain aid or benefits under any local, state or federal housing assistance program; penalties.

Any person who (i) knowingly makes or causes to be made either directly or indirectly or through any agent or agency, any false statement in writing with the intent that it shall be relied upon, or fails to disclose any material fact concerning the financial means or ability to pay of himself or of any other person for whom he is acting, for the purpose of procuring aid and benefits available under any local, state or federally funded housing assistance program, or (ii) knowingly fails to disclose a change in circumstances in order to obtain or continue to receive under any such program aid or benefits to which he is not entitled or who knowingly aids and abets another person in the commission of any such act is guilty of a Class 1 misdemeanor. *Upon conviction, the person's sentence shall include a mandatory minimum term of confinement of 180 days. A person convicted under this section shall, to the extent allowable by federal law, be forever barred from receiving assistance under any local or state housing assistance program and any entitlement programs administered by the State Board of Social Services, the State Board of Health, or the Board of Medical Assistance Services. In addition, the person shall be assessed a civil penalty of three times the amount of benefit fraudulently received from state or local funds. Civil penalties shall be deposited in the general fund of the state treasury upon receipt.*

§ 32.1-321.4. False statement or representation in applications for eligibility or for use in determining rights to benefits; concealment of facts; penalties.

A. Any person who engages in the ~~following~~ activities *listed in this subsection*, on behalf of himself or another, shall be guilty of larceny ~~and, in addition to the penalties as provided in §§ 18.2-95 and 18.2-96 as applicable, may be fined an amount not to exceed \$10,000.~~ *Upon conviction under § 18.2-95 the person's sentence shall include a mandatory minimum term of confinement of one year, and upon conviction under § 18.2-96 the person's sentence shall include a mandatory minimum term of confinement of 180 days. In addition, the person shall be assessed a civil penalty of three times the amount of benefits received.*

1. Knowingly and willfully making or causing to be made any false statement or misrepresentation of a material fact in an application for eligibility, benefits or payments under medical assistance;

2. Knowingly and willfully falsifying, concealing or covering up by any trick, scheme, or device a material fact or causing a material fact to be falsified, concealed, or covered up in such a manner, in connection with an application for eligibility, benefits or payments;

3. Knowingly and willfully concealing or failing to disclose any event affecting the initial or continued right of any individual to any benefits or payment or causing such concealment or failure to disclose such an event with an intent to secure fraudulently such benefits or payment in a greater amount or quantity than is authorized or when no such benefit or payment is authorized;

4. Knowingly and willfully converting or causing to be converted any benefits or payment received pursuant to an application for another person and receipt of benefits or payment on behalf of such other person to use other than for the health and welfare of the other person; ~~or.~~

5. Knowingly and willfully failing to notify or causing another to fail to notify the local department of social services, through whom medical assistance benefits were obtained, of changes in the circumstances of any recipient or applicant which could result in the reduction or termination of medical assistance services.

B. It shall be the duty of the Director of Medical Assistance Services or his designee to enforce the provisions of this section. A warrant or summons may be issued for violations of which the Director or his designee has knowledge. Trial for violation of this section shall be held in the county or city in which the application for medical assistance was made or obtained. *All civil penalties shall be deposited in the general fund of the state treasury upon receipt.*

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59 § 63.2-522. False statements, representations, impersonations and fraudulent devices; penalty.

60 Whoever obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a
61 willful false statement or representation, or by impersonation, or other fraudulent device, public
62 assistance or benefits from other programs designated under regulations of the Board, *the* State Board of
63 Health or the Board of Medical Assistance Services to which he is not entitled or who fails to comply
64 with the provisions of § 63.2-513 is guilty of larceny. It shall be the duty of the local director, the
65 Commissioner of Health or the Director of the Department of Medical Assistance Services to investigate
66 alleged violations and enforce the provisions of this section. A warrant or summons may be issued for
67 each violation of which the local director, the Commissioner of Health or the Director of the Department
68 of Medical Assistance Services has knowledge. The local director, the Commissioner or the Director
69 shall ensure that the attorney for the Commonwealth is notified of any investigation or alleged violation
70 under this section. Trial for violations of this section shall be in the county or city from whose local
71 department assistance was sought or obtained.

72 In any prosecution under the provisions of this section, it shall be lawful and sufficient in the same
73 indictment or accusation to charge and therein to proceed against the accused for any number of distinct
74 acts of such false statements, representations, impersonations or fraudulent devices that may have been
75 committed by him within six months from the first to the last of the acts charged in the indictment or
76 accusation.

77 *Upon conviction of a misdemeanor under this section the person's sentence shall include a*
78 *mandatory minimum term of confinement of 180 days, and upon conviction of a felony under this*
79 *section the person's sentence shall include a mandatory minimum term of confinement of one year. In*
80 *addition, the person shall pay a civil penalty of three times the amount of benefit fraudulently received.*
81 *All civil penalties shall be deposited in the general fund of the state treasury upon receipt. A person*
82 *convicted under this section shall, to the extent allowed by federal law, be forever barred from receiving*
83 *assistance under any local or state housing assistance program or any programs designated under*
84 *regulations of the Board, the State Board of Health, or the Board of Medical Assistance Services.*

85 § 63.2-523. Unauthorized use of food stamps, electronic benefit transfer cards, and energy assistance
86 prohibited; penalties.

87 Whoever knowingly and with intent to defraud transfers, acquires, alters, traffics in or uses, or aids
88 or abets another person in transferring, acquiring, altering, trafficking in, using, or possessing food
89 stamps, electronic benefit transfer cards or other devices subject to federal reserve system regulations
90 regarding Electronic Fund Transfers, 12 CFR § 205.1 et seq., or benefits from energy assistance
91 programs, or possesses food coupons, authorization to purchase cards, electronic benefit transfer cards or
92 other devices subject to federal reserve system regulations regarding Electronic Fund Transfers, 12 CFR
93 § 205.1 et seq., or benefits from energy assistance programs in any manner not authorized by law is
94 guilty of larceny.

95 A violation of this section may be prosecuted either in the county or city where the public assistance
96 was granted or in the county or city where the violation occurred.

97 *Upon conviction of a misdemeanor under this section the person's sentence shall include a*
98 *mandatory minimum term of confinement of 180 days, and upon conviction of a felony under this*
99 *section the person's sentence shall include a mandatory minimum term of confinement of one year. In*
100 *addition, the person shall pay a civil penalty payable to the general fund of the state treasury of three*
101 *times the amount of benefit fraudulently received. A person convicted under this section shall, to the*
102 *extent allowed by federal law, be forever barred from receiving assistance under any local or state*
103 *housing assistance program or any programs designated under regulations of the Board, the State*
104 *Board of Health, or the Board of Medical Assistance Services.*

105 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
106 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is**
107 **\$3,694,072 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of**
108 **commitment to the custody of the Department of Juvenile Justice.**