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SENATE BILL NO. 140

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 13, 1994)

(Patron Prior to Substitute—Senator Robb)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-213.2, relating to health care fraud; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-213.2 as follows:

§ 18.2-213.2. Health care fraud.

A. No person on behalf of himself or another person or legal entity shall:

1. Knowingly and willfully make or cause to be made any false or fraudulent statement or representation of a material fact in any application for any payment from an insurer, health services plan or health maintenance organization pursuant to an insurance policy, contract or plan as described in Title 38.2 or from a governmental entity pursuant to any local, state or federal government program which makes payments for health care services, or to knowingly and willfully falsify, conceal or cover up any trick, scheme or device employed in connection with such application;

2. Knowingly and willfully make or cause to be made any false or fraudulent statement or representation of a material fact for use by the insurer, health services plan or health maintenance organization or governmental entity in determining rights to such payment or to knowingly and willfully falsify, conceal or cover up any trick, scheme or device employed in connection with determination of such rights by the insurer, health services plan or health maintenance organization or governmental entity; or

3. When having knowledge of the occurrence of any event or circumstance materially affecting the initial or continued right to any payment or payments, willfully conceal or fail to disclose such event or circumstance with an intent to fraudulently procure such payment either in a greater amount or frequency than it is due or when no payment is due whatsoever.

B. Any person who violates any provisions of this section, irrespective of whether he receives any benefits or payments, shall be guilty of a Class 1 misdemeanor. However, if such person receives benefits or payments valued at \$200 or more in a six-month period, he shall be guilty of a Class 5 felony. In addition, the court may order restitution to the insurer, health services plan or health maintenance organization or government program in an amount equal to the benefits and payments fraudulently obtained. The amount of benefits and payments fraudulently obtained shall be determined by an audit of all pertinent records.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$ 250,000.