

LD1965843

HOUSE BILL NO. 2406

Offered January 23, 1995

A BILL to amend and reenact §§ 2.1-124, 32.1-314 and 32.1-321 of the Code of Virginia, relating to Medicaid fraud; prosecution; penalty.

Patrons—McDonnell, Dudley, Harris, Ingram, Kilgore, Newman, Nixon, O'Brien, Purkey, Rollison, Ruff, Wagner, Wardrup and Wilkins; Senator: Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-124, 32.1-314 and 32.1-321 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-124. Criminal cases.

Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), violation of laws relating to elections and the electoral process as provided in § 24.1-21, laws relating to motor vehicles and their operation, the handling of funds by a state bureau, institution, commission or department, the theft of state property, *violations of Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1* and cases involving the practice of law without being duly authorized or licensed or the illegal practice of law, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may, in his discretion, institute proceedings by information, presentment or indictment, as the one or the other may be appropriate, and conduct the same.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

§ 32.1-314. False statement or representation in applications for payment or for use in determining rights to payment; concealment of facts; penalty.

Any person who engages in the following activities shall be guilty of ~~larceny and, in addition to the penalties provided in §§ 18.2-95 and 18.2-96 as applicable,~~ *a felony punishable by a term of imprisonment of not less than one nor more than twenty years, or in the discretion of the jury of the court trying the case without a jury, confinement in jail for not more than twelve months and, in addition to such imprisonment or confinement, may be fined an amount not to exceed \$25,000:*

1. Knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for any payment under medical assistance; or

2. At any time knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly and willfully falsifying, concealing or covering up by any trick, scheme or device a material fact in connection with such application or payment; or

3. When having knowledge of the occurrence of any event affecting (i) the initial or continued right to any payment, or (ii) the initial or continued right to any such payment of any other individual in whose behalf he has applied for or is receiving such payments, willfully concealing or failing to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized.

§ 32.1-321. Prosecution of cases.

The State Attorney General shall (i) *in consultation with the attorney for the Commonwealth in the city or county where a violation of the provisions of this chapter occurred, prosecute any case involving a violation in that city or county or* (ii) ~~refer cases for prosecution in accordance with cases involving violations of the provisions of this chapter to the attorney for the Commonwealth in the city or county where the offense occurred.~~ *The In cases where there is a referral to the attorney for the Commonwealth he shall obtain the assistance of the office of the Attorney General in the conduct of litigation arising under this chapter and shall be considered the authorized representative of the Attorney General for the purposes of this chapter.*

60 2. That the provisions of this act may result in a net increase in periods of imprisonment in state
61 correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation
62 is \$0.