



General Assembly

**Substitute Bill No. 1165**

January Session, 2011

\*       SB01165HS      052411      \*

**AN ACT CONCERNING MEDICARE AND MEDICAID FRAUD.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of  
2       this section:

3       (1) "Medicare or Medicaid fraud" means a crime involving fraud in  
4       the Medicare program or the Medicaid program, including, but not  
5       limited to, vendor fraud, as defined in section 53a-290 of the general  
6       statutes, related to the Medicare program or the Medicaid program;

7       (2) "Person" means "person", as defined in section 53a-3 of the  
8       general statutes; and

9       (3) "This state" includes the land and water, and the air space above  
10       such land and water, with respect to which the General Assembly has  
11       jurisdiction to enact legislation.

12       (b) With respect to Medicare or Medicaid fraud, a person shall be  
13       criminally liable as provided in section 53a-11 of the general statutes or  
14       section 2 of this act, or shall be criminally liable for conduct performed  
15       in such person's own name or on such person's behalf, if:

16       (1) (A) The conduct which is an element of the Medicare or  
17       Medicaid fraud occurs within this state, or (B) the result which is an  
18       element of the Medicare or Medicaid fraud occurs within this state,

19 except that this subparagraph shall not apply when the result within  
20 this state is caused by conduct occurring outside this state which  
21 would not constitute Medicare or Medicaid fraud where the conduct  
22 occurred, unless the person intentionally or knowingly caused the  
23 Medicare or Medicaid fraud within this state;

24 (2) Conduct occurring outside this state is sufficient under the laws  
25 of this state to constitute an attempt to commit Medicare or Medicaid  
26 fraud within this state;

27 (3) Conduct occurring outside this state is sufficient under the laws  
28 of this state to constitute conspiracy to commit Medicare or Medicaid  
29 fraud within this state, and an overt act in pursuance of such  
30 conspiracy occurs within this state;

31 (4) Conduct occurring within this state establishes the element  
32 under subsection (a) of section 53a-8 of the general statutes of  
33 soliciting, requesting, commanding, importuning or intentionally  
34 aiding another person to engage in conduct which constitutes  
35 Medicare or Medicaid fraud in another jurisdiction and which is also a  
36 crime in this state;

37 (5) The Medicare or Medicaid fraud consists of the omission to  
38 perform a duty imposed by the laws of this state with respect to  
39 domicile in this state, residence in this state, or the relationship to a  
40 person, thing or transaction in this state; or

41 (6) The Medicare or Medicaid fraud is based on a provision of the  
42 general statutes which expressly prohibits conduct outside this state  
43 when such conduct bears a reasonable relationship to a legitimate  
44 interest of this state and the person knew or should have known that  
45 the person's conduct was likely to affect such interest of this state.

46 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) As used in this section:

47 (1) "Agent" means a director, officer, employee or other person  
48 authorized to act on behalf of a corporation, a member of an

49 unincorporated association or a partner in a partnership;

50 (2) "Corporation" means a public or private corporation, a limited  
51 liability company, an unincorporated association or a partnership.  
52 "Corporation" does not include a government or a governmental  
53 instrumentality;

54 (3) "High managerial agent" means an agent of a corporation having  
55 duties of such responsibility that the agent's conduct may fairly be  
56 assumed to represent the policy of the corporation; and

57 (4) "Medicare or Medicaid fraud" means a crime involving fraud in  
58 the Medicare program or the Medicaid program, including, but not  
59 limited to, vendor fraud, as defined in section 53a-290 of the general  
60 statutes, provided such vendor fraud is related to the Medicare  
61 program or Medicaid program.

62 (b) A corporation may be convicted of Medicare or Medicaid fraud  
63 if:

64 (1) The crime is established in the general statutes and consists of  
65 Medicare or Medicaid fraud and (A) the court determines that the  
66 legislative intent of the crime is to impose liability on a corporation for  
67 Medicare or Medicaid fraud, or (B) the statute designates the agents for  
68 whose conduct the corporation is accountable or the circumstances  
69 under which the corporation is accountable;

70 (2) The Medicare or Medicaid fraud is performed by an agent of the  
71 corporation on behalf of the corporation, within the scope of the  
72 agent's office or employment;

73 (3) The commission of the Medicare or Medicaid fraud consists of an  
74 omission to discharge a specific duty to perform imposed on the  
75 corporation by law; or

76 (4) The commission of the Medicare or Medicaid fraud was  
77 authorized, requested, commanded, performed or recklessly tolerated  
78 by the board of directors of the corporation, or by a high managerial

79 agent acting on behalf of the corporation within the scope of the high  
80 managerial agent's office or employment.

81 (c) Whenever a duty to act is imposed by law on a corporation with  
82 respect to Medicare or Medicaid fraud, any agent of the corporation  
83 having primary responsibility for the discharge of such duty shall be  
84 criminally liable for a reckless omission to act to the same extent as if  
85 such duty were imposed by law directly on such agent.

86 (d) In any prosecution under this section, it shall be an affirmative  
87 defense that the defendant exercised due diligence to prevent the  
88 commission of the crime.

89 (e) Any agent, high managerial agent or corporation convicted of  
90 Medicare or Medicaid fraud pursuant to this section shall be subject to  
91 the penalty applicable when an individual commits such Medicare or  
92 Medicaid fraud in such individual's capacity.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section

**JUD**      *Joint Favorable Subst.*

**HS**        *Joint Favorable*