

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 15, 2018
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1211 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, after line 3, insert:
- 2 "(1) "ABUSE" MEANS WILLFUL INFLECTION OF INJURY,
- 3 UNREASONABLE CONFINEMENT, INTIMIDATION, OR PUNISHMENT WITH
- 4 RESULTING PHYSICAL OR FINANCIAL HARM OR PAIN OR MENTAL ANGUISH,
- 5 INCLUDING ANY ACTS OR OMISSIONS THAT CONSTITUTE A CRIMINAL
- 6 VIOLATION UNDER STATE LAW."

- 7 Renumber succeeding subsections accordingly.

- 8 Page 3, after line 18, insert:
- 9 "(6) "EXPLOITATION" MEANS THE WRONGFUL TAKING OR USE OF
- 10 FUNDS OR PROPERTY OF A PATIENT RESIDING IN A HEALTH CARE FACILITY
- 11 OR BOARD AND CARE FACILITY THAT CONSTITUTES A CRIMINAL VIOLATION
- 12 UNDER STATE LAW."

- 13 Renumber succeeding subsections accordingly.

- 14 Page 3, after line 20 insert:
- 15 "(8) "MATERIAL INFORMATION" MEANS AN ASSERTION OR
- 16 INFORMATION DIRECTLY PERTAINING TO A CLAIM, RECORD, STATEMENT,
- 17 OR REPRESENTATION THAT A REASONABLE PERSON KNOWS OR SHOULD
- 18 KNOW WILL AFFECT THE ACTION, CONDUCT, OR DECISION OF THE PERSON
- 19 WHO RECEIVES OR IS INTENDED TO RECEIVE THE ASSERTED INFORMATION
- 20 IN A MANNER THAT WOULD DIRECTLY OR INDIRECTLY BENEFIT THE PERSON

1 MAKING THE ASSERTION."

2 Renumber succeeding subsections accordingly.

3 Page 3, after line 26, insert:
4 "(11) "NEGLECT" MEANS WILLFUL FAILURE TO PROVIDE GOODS
5 AND SERVICES NECESSARY TO AVOID PHYSICAL HARM, MENTAL ANGUISH,
6 OR MENTAL ILLNESS, INCLUDING ANY NEGLECT THAT CONSTITUTES A
7 CRIMINAL VIOLATION UNDER STATE LAW."

8 Renumber succeeding subsections accordingly.

9 Page 5, line 17, strike "OF" and substitute "WHERE THE AGENCY OR ENTITY
10 HAS REASONABLE CAUSE TO BELIEVE THAT THERE IS".

11 Page 6, line 7, strike "**Attorney general**" and substitute "**Medicaid fraud
12 control unit**".

13 Page 6, line 9, strike "ATTORNEY GENERAL" and substitute "UNIT".

14 Page 6, line 10, after "PROSECUTE" insert "CIVIL".

15 Page 6, line 11, strike "BOTH CIVIL,".

16 Page 6, lines 12 and 13, strike "25.5-4-310, AND CRIMINAL, PURSUANT TO
17 THIS PART 8 OR TITLE 18;" and substitute "25.5-4-310;".

18 Page 6, strike lines 14 and 15 and substitute:
19 "(b) INVESTIGATE AND PROSECUTE CRIMINAL MEDICAID FRAUD
20 AND WASTE PURSUANT TO THIS PART 8 AND TITLE 18;
21 (c) INVESTIGATE AND PROSECUTE PATIENT ABUSE, NEGLECT, OR
22 EXPLOITATION PROVIDED THAT PRIOR TO THE FILING OF ANY CRIMINAL
23 CHARGES INVOLVING PATIENT ABUSE, NEGLECT, OR EXPLOITATION BY
24 EITHER COMPLAINT OR GRAND JURY INDICTMENT THE UNIT SHALL FIRST
25 CONSULT WITH THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT WHERE
26 THE PROSECUTION WOULD BE INITIATED. IF AFTER SUCH CONSULTATION,
27 THE DISTRICT ATTORNEY AGREES WITH THE FILING OF CHARGES, THE UNIT
28 SHALL CROSS-DESIGNATE THE DISTRICT ATTORNEY OR HIS OR HER
29 DESIGNATED ASSISTANT OR DEPUTY DISTRICT ATTORNEY AS A SPECIAL
30 ASSISTANT ATTORNEY GENERAL ON THE CASE. IF AFTER SUCH
31 CONSULTATION THE DISTRICT ATTORNEY DOES NOT AGREE WITH THE

- 1 FILING OF CHARGES, THE UNIT MAY FILE THE CASE INDEPENDENTLY;".
- 2 Renumber succeeding paragraphs accordingly.
- 3 Page 6, strike lines 23 through 25.
- 4 Page 6, line 27, strike "BY THE ATTORNEY GENERAL".
- 5 Page 7, line 3, strike "BY THE ATTORNEY GENERAL".
- 6 Page 7, line 6, strike "BY THE ATTORNEY GENERAL".
- 7 Page 8, line 2, strike "MAKES" and substitute "WITH INTENT TO DEFRAUD,
8 MAKES".
- 9 Page 8, line 3, strike "TO BE" and substitute "CONTAINS MATERIAL
10 INFORMATION THAT IS".
- 11 Page 8, line 5, strike "MAKES" and substitute "WITH INTENT TO DEFRAUD,
12 MAKES".
- 13 Page 8, line 8, strike "TO BE" and substitute "CONTAINS MATERIAL
14 INFORMATION THAT IS".
- 15 Page 8, line 10, strike "MAKES" and substitute "WITH INTENT TO
16 DEFRAUD, MAKES".
- 17 Page 8, line 13, strike "TO BE" and substitute "CONTAINS MATERIAL
18 INFORMATION THAT IS".
- 19 Page 8, line 15, strike "MAKES" and substitute "WITH INTENT TO
20 DEFRAUD, MAKES".
- 21 Page 8, line 18, strike "TO BE" and substitute "CONTAINS MATERIAL
22 INFORMATION THAT IS".
- 23 Page 8, line 20, strike "SIGNS" and substitute "WITH INTENT TO DEFRAUD,
24 SIGNS".
- 25 Page 8, line 25, after "LAW," insert "AND WITHOUT CONSENT OF THE
26 BENEFICIARY,".

- 1 Page 9, line 4, strike "DESTROYS, CONCEALS, OR REMOVES" and substitute
2 "OR CONCEALS".
- 3 Page 9, line 7, strike "RECEIVED," and substitute "RECEIVED; DESTROYS OR
4 REMOVES SUCH RECORDS WITH THE INTENT TO PREVENT THEIR REVIEW BY
5 REPRESENTATIVES OF THE STATE OR THEIR DESIGNEES;".
- 6 Page 9, line 11, strike "DESTROYS, CONCEALS, OR REMOVES" and
7 substitute "OR CONCEALS".
- 8 Page 9, line 13, strike "BASED;" and substitute "BASED, OR DESTROYS OR
9 REMOVES SUCH RECORDS WITH THE INTENT TO PREVENT THEIR REVIEW BY
10 REPRESENTATIVES OF THE STATE OR THEIR DESIGNEES;".
- 11 Page 9, line 18, after "REPRESENTATION", insert "CONTAINS MATERIAL
12 INFORMATION THAT".
- 13 Page 9, line 20, after "LAW," insert "AND WITHOUT CONSENT OF THE
14 BENEFICIARY,".
- 15 Page 13, line 5, strike "OR" and substitute "PROSECUTION DIRECTLY
16 RELATED TO CRIMINAL MEDICAID FRAUD AND WASTE, AS WELL AS
17 CRIMINAL PATIENT ABUSE, NEGLIGENCE, AND EXPLOITATION, OR ANY OTHER".
- 18 Page 13, line 16, strike "OFFENSE." and substitute "OFFENSE, BUT NO
19 LATER THAN SIX YEARS AFTER THE DATE OF THE COMMISSION OF THE
20 OFFENSE.".

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