

An Act

ENROLLED HOUSE
BILL NO. 3668

By: Miller and Swope of the
House

and

Rosino of the Senate

An Act relating to Medicaid fraud; amending 22 O.S. 2021, Section 152, as amended by Section 1, Chapter 174, O.S.L. 2022 (22 O.S. Supp. 2023, Section 152), which relates to statute of limitations for criminal procedure; including adult sexual abuse to all sexual abuse crimes; amending 22 O.S. 2021, Section 1402, which relates to definitions in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; adding to definition to include neglect and abuse to elderly adults; adding to definition to include Medicaid fraud; amending 56 O.S. 2021, Section 1006, which relates to penalty for Medicaid fraud; decreasing the dollar threshold amount for a felony and misdemeanor; adding the fine and imprisonment amounts; and providing an effective date.

SUBJECT: Medicaid fraud

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2021, Section 152, as amended by Section 1, Chapter 174, O.S.L. 2022 (22 O.S. Supp. 2023, Section 152), is amended to read as follows:

Section 152. A. Prosecutions for the crimes of bribery, embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, or of any misappropriation of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof,

falsification of public records of the state or any county, school district, municipality or other subdivision thereof, and conspiracy to defraud the State of Oklahoma or any county, school district, municipality or other subdivision thereof in any manner or for any purpose shall be commenced within seven (7) years after the discovery of the crime; provided, however, prosecutions for the crimes of embezzlement or misappropriation of public money, bonds, securities, assets or property of any school district, including those relating to student activity funds, or the crime of falsification of public records of any independent school district, the crime of criminal conspiracy, the crime of embezzlement pursuant to Sections 1451 through 1461 of Title 21 of the Oklahoma Statutes, the crime of False Personation or Identity Theft pursuant to Sections 1531 through 1533.3 of Title 21 of the Oklahoma Statutes, the financial exploitation of a vulnerable adult pursuant to Sections 843.1, 843.3 and 843.4 of Title 21 of the Oklahoma Statutes, or Medicaid fraud pursuant to Section 1005 of Title 56 of the Oklahoma Statutes, shall be commenced within five (5) years after the discovery of the crime.

B. Prosecutions for criminal violations of any state income tax laws shall be commenced within five (5) years after the commission of such violation.

C. 1. Prosecutions for sexual crimes against children, specifically rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography pursuant to Section 886, 888, 1111, 1111.1, 1113, 1114, 1021.2, 1021.3, 1040.12a or 1123 of Title 21 of the Oklahoma Statutes, child abuse pursuant to Section 843.5 of Title 21 of the Oklahoma Statutes, and child trafficking pursuant to Section 866 of Title 21 of the Oklahoma Statutes shall be commenced by the forty-fifth birthday of the alleged victim. Prosecutions for such crimes committed against victims eighteen (18) years of age or older, and sexual abuse of a vulnerable adult pursuant to Section 843.1 of Title 21 of the Oklahoma Statutes shall be commenced within twelve (12) years after the discovery of the crime. As used in this paragraph, "discovery" means the date that a physical or sexually related crime involving a victim eighteen (18) years of age or older is reported to a law enforcement agency.

2. However, prosecutions for the crimes listed in paragraph 1 of this subsection may be commenced at any time after the commission of the offense if:

- a. physical evidence is collected and preserved that is capable of being tested to obtain a profile from deoxyribonucleic acid (DNA), and
- b. the identity of the offender is subsequently established through the use of a DNA profile using evidence listed in subparagraph a of this paragraph.

A prosecution under this exception must be commenced within three (3) years from the date on which the identity of the suspect is established by DNA testing.

3. No prosecution under this subsection shall be based upon the memory of the victim that has been recovered through psychotherapy unless there is some evidence independent of such repressed memory.

4. Any person who knowingly and willfully makes a false claim pursuant to this subsection or a claim that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction, shall be guilty of a felony.

D. Prosecutions for criminal violations of any provision of the Oklahoma Wildlife Conservation Code shall be commenced within three (3) years after the commission of such offense.

E. Prosecutions for the crime of criminal fraud or workers' compensation fraud pursuant to Section 1541.1, 1541.2, 1662 or 1663 of Title 21 of the Oklahoma Statutes shall commence within three (3) years after the discovery of the crime, but in no event greater than seven (7) years after the commission of the crime.

F. Prosecution for the crime of false or bogus check pursuant to Section 1541.1, 1541.2, 1541.3 or 1541.4 of Title 21 of the Oklahoma Statutes shall be commenced within five (5) years after the commission of such offense.

G. Prosecution for the crime of solicitation for murder in the first degree pursuant to Section 701.16 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the discovery of the crime. For purposes of this subsection, "discovery" means the date upon which the crime is made known to anyone other than a person involved in the solicitation.

H. In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.

I. Prosecution for the crime of accessory after the fact must be commenced within the same statute of limitations as that of the felony for which the person acted as an accessory.

J. Prosecution for the crime of arson pursuant to Section 1401, 1402, 1403, 1404 or 1405 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the commission of the crime.

K. Prosecutions for criminal violations in which a deadly weapon is used to commit a felony or prosecutions for criminal violations in which a deadly weapon is used in an attempt to commit a felony shall be commenced within seven (7) years after the commission of the crime.

L. Prosecutions for the crime of human trafficking pursuant to Section 748 of Title 21 of the Oklahoma Statutes shall be commenced within three (3) years after discovery of the crime. For purposes of this subsection, "discovery" means the date upon which the crime is reported to a law enforcement agency.

SECTION 2. AMENDATORY 22 O.S. 2021, Section 1402, is amended to read as follows:

Section 1402. As used in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act:

1. "Beneficial interest" includes:
 - a. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or
 - b. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

2. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking or any foreign organization that the United States Secretary of State has designated a foreign terrorist organization pursuant to Title 8 U.S.C.A., Section 1189;

3. "Innocent party" includes bona fide purchasers and victims;

4. "Lien notice" means the notice pursuant to the provisions of Section 1412 of this title;

5. "Pattern of racketeering activity" means two or more occasions of conduct:

a. that include each of the following:

- (1) constitute racketeering activity,
- (2) are related to the affairs of the enterprise,
- (3) are not isolated, and
- (4) are not so closely related to each other and connected in point of time and place that they constitute a single event, and

b. where each of the following is present:

- (1) at least one of the occasions of conduct occurred after November 1, 1988,
- (2) the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and
- (3) for the purposes of Section 1403 of this title each of the occasions of conduct constituted a felony pursuant to the laws of this state;

6. "Pecuniary value" means:

- a. anything of value in the form of money, a negotiable instrument, or a commercial interest, or anything else, the primary significance of which is economic advantage, or
- b. any other property or service that has a value in excess of One Hundred Dollars (\$100.00);

7. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

8. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed to be located where the trustee, the personal property, or the instrument evidencing the right is located;

9. "Principal" means a person who engages in conduct constituting a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act or who is legally accountable for the conduct of another who engages in a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act;

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

- a. relating to homicide pursuant to the provisions of Section 651, 652, 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma Statutes or relating to concealment of homicidal death pursuant to the provisions of Section 543 of Title 21 of the Oklahoma Statutes,
- b. relating to kidnapping pursuant to the provisions of Section 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,
- c. relating to sex offenses pursuant to the provisions of Section 886, 888, 1021, 1021.2, 1021.4, 1024.2, 1111,

1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,

- d. relating to bodily harm pursuant to the provisions of Section 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma Statutes,
- e. relating to theft, where the offense constitutes a felony, pursuant to the provisions of Section 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma Statutes,
- f. relating to forgery pursuant to the provisions of Section 1561, 1562, 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of the Oklahoma Statutes,
- g. relating to robbery pursuant to the provisions of Section 797, 800 or 801 of Title 21 of the Oklahoma Statutes,
- h. relating to burglary pursuant to the provisions of Section 1431, 1435 or 1437 of Title 21 of the Oklahoma Statutes,
- i. relating to arson pursuant to the provisions of Section 1368, 1401, 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,
- j. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of Section 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma Statutes,
- k. relating to gambling pursuant to the provisions of Section 941, 942, 944, 945, 946, 948, 954, 956, 957, 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, or 991 ~~or 992~~ of Title 21 of the Oklahoma Statutes,
- l. relating to bribery in contests pursuant to the provisions of Section 399 or 400 of Title 21 of the Oklahoma Statutes,

- m. relating to interference with public officers pursuant to the provisions of Section 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,
- n. relating to interference with judicial procedure pursuant to the provisions of Section 388, 453, 455, 456, 491, 496 or 504 of Title 21 of the Oklahoma Statutes,
- o. relating to official misconduct pursuant to the provisions of Section 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma Statutes, or Section 3404 of Title 74 of the Oklahoma Statutes,
- p. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,
- q. relating to automobile theft pursuant to the provisions of Section 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
- r. relating to embezzlement pursuant to the provisions of Section 1412 of Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the Oklahoma Statutes, Section 341, 531 or 1451 of Title 21 of the Oklahoma Statutes, Section 5-135 of Title 37A of the Oklahoma Statutes, Section 1025 of Title 64 of the Oklahoma Statutes or Section 1361 of Title 68 of the Oklahoma Statutes,
- s. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of Section 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of the Oklahoma Statutes,
- t. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of Section 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma Statutes, Section 753 of Title 15 of the Oklahoma Statutes, Section 552.14a of Title 18 of the Oklahoma Statutes,

Section 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.2, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes, Section 243 of Title 56 of the Oklahoma Statutes, or Section 604 of Title 62 of the Oklahoma Statutes,

- u. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of Section 421, 422 or 424 of Title 21 of the Oklahoma Statutes,
- v. relating to prostitution, pornography or obscenity pursuant to the provisions of Section 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of the Oklahoma Statutes,
- w. relating to the Oklahoma Alcoholic Beverage Control Act, where the offense constitutes a felony, pursuant to the provisions of Section 1-101 et seq. of Title 37A of the Oklahoma Statutes,
- x. relating to the Oklahoma Uniform Securities Act of 2004, where the offense constitutes a felony, pursuant to the provisions of Sections 1-101 through 1-701 of Title 71 of the Oklahoma Statutes,
- y. relating to human trafficking or trafficking in children pursuant to the provisions of Section 748, 866 or 867 of Title 21 of the Oklahoma Statutes,
- z. relating to illegal aliens pursuant to the provisions of Section 446 of Title 21 of the Oklahoma Statutes,
- aa. relating to organized voter fraud pursuant to the provisions of Section 16-102, 16-102.1, 16-102.2, 16-103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-120 or 16-123.1 of Title 26 of the Oklahoma Statutes,
- bb. relating to terrorism and terrorist activities pursuant to the provisions of the Sabotage Prevention Act or the Oklahoma Antiterrorism Act,

- cc. relating to the neglect, abuse, or exploitation of elderly persons or disabled adults pursuant to the provisions of ~~Section~~ Sections 843.1 and 843.4 of Title 21 of the Oklahoma Statutes,
- dd. relating to computer crimes pursuant to the provisions of Sections 1953 and 1958 of Title 21 of the Oklahoma Statutes,
- ee. relating to unlawful proceeds pursuant to the provisions of Section 2001 of Title 21 of the Oklahoma Statutes,
- ff. relating to insurance fraud pursuant to the provisions of Section 311.1 of Title 36 of the Oklahoma Statutes,
- gg. relating to workers' compensation fraud pursuant to the provisions of Section 1663 of Title 21 of the Oklahoma Statutes, ~~or~~
- hh. relating to unlawful assemblies pursuant to the provisions of Section 1320.3 of Title 21 of the Oklahoma Statutes, or
- ii. relating to Medicaid fraud pursuant to the provisions of Sections 1005 and 1005.1 of Title 56 of the Oklahoma Statutes.

In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state;

11. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

12. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee in accordance with the Oklahoma Trust Act; and

13. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable

in the courts of Oklahoma, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of federal or state law but does not include any debt owed to a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a debt collection agency, which referral or assignment is accepted in good faith by the debt collection agency as a debt collectible under the Uniform Commercial Code or other laws of this state and enforceable in the courts of this state.

SECTION 3. AMENDATORY 56 O.S. 2021, Section 1006, is amended to read as follows:

Section 1006. A. Any person found to have committed any violation of paragraphs 1 through 6 of subsection A of Section 1005 of this title shall be deemed guilty of Medicaid fraud.

B. 1. Any person committing Medicaid fraud where the aggregate amount of payments illegally claimed or received is ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ One Thousand Dollars (\$1,000.00) or more shall be guilty of a felony, and upon conviction thereof shall pay a fine of not more than three times the amount of payments illegally claimed or received or Ten Thousand Dollars (\$10,000.00) whichever is greater, or be imprisoned for not more than three (3) years, or by both such fine and imprisonment.

2. Any person committing Medicaid fraud where the aggregate amount of payments illegally claimed or received is less than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ One Thousand Dollars (\$1,000.00) shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than three times the amount of payments illegally claimed or received or One Thousand Dollars (\$1,000.00) whichever is greater, or imprisoned for not more than one (1) year, or by both such fine and imprisonment.

Any person who violates paragraph 7 of subsection A of Section 1005 of this title shall be guilty of a felony, and upon conviction thereof shall pay a fine of not more than three times the amount of payments (claimed or received) equaling the services which would have been reflected in the absent records or Ten Thousand Dollars (\$10,000.00), whichever is greater, or be imprisoned for not more than three (3) years, or by both such fine and imprisonment. Additionally, the person found guilty hereunder shall be liable for the cost of the investigation, litigation, and attorney fees, which,

in addition to all fines assessed, shall be deposited in the
Attorney General's Medicaid Revolving Fund.

SECTION 4. This act shall become effective November 1, 2024.

Passed the House of Representatives the 9th day of May, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 17th day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____