



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5049

Introduced 1/27/2022, by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

15 ILCS 205/6.7 new
20 ILCS 105/4.04a
305 ILCS 5/8A-7

from Ch. 23, par. 8A-7

Amends the Attorney General Act. Transfers provisions concerning the Medicaid Fraud Control Unit from the Illinois State Police to the Office of the Attorney General. Provides for the transfer of employees, records, unexpended funds, and other matters. Amends the Illinois Act on Aging and the Illinois Public Aid Code to make conforming changes.

LRB102 22605 KTG 31748 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Attorney General Act is amended by adding
5 Section 6.7 as follows:

6 (15 ILCS 205/6.7 new)

7 Sec. 6.7. Medicaid Fraud Control Unit.

8 (a) Transfer of functions and powers. On the effective
9 date of this amendatory Act of the 102nd General Assembly, all
10 functions performed by the Medicaid Fraud Control Unit within
11 the Illinois State Police, together with all of the powers,
12 duties, rights, and responsibilities of the Medicaid Fraud
13 Control Unit relating to those functions, are transferred from
14 the Illinois State Police to the Office of the Attorney
15 General.

16 The Illinois State Police and the Office of the Attorney
17 General shall cooperate to ensure that the transfer of
18 functions is completed as soon as practical.

19 (b) Effect of transfer. Neither the functions of the
20 Medicaid Fraud Control Unit, nor the powers, duties, rights,
21 and responsibilities relating to those functions, that are
22 transferred from the Illinois State Police to the Office of
23 the Attorney General under this Section are affected by this

1 amendatory Act of the 102nd General Assembly, except that all
2 such functions, powers, duties, rights, and responsibilities
3 shall be performed or exercised within the Office of the
4 Attorney General on and after the effective date of this
5 amendatory Act of the 102nd General Assembly.

6 (c) Personnel transferred. The status and rights of the
7 employees in the Illinois State Police engaged in the
8 performance of functions relating to the Medicaid Fraud
9 Control Unit shall not be affected by the transfer of those
10 functions from the Illinois State Police to the Office of the
11 Attorney General under this Section. The rights of those
12 employees as derived from the State of Illinois and its
13 agencies under the Personnel Code, the applicable collective
14 bargaining agreements, or any pension, retirement, or annuity
15 plan shall not be affected by this Section. Personnel employed
16 by the Illinois State Police who are affected by this Section
17 shall continue their service within the Office of the Attorney
18 General notwithstanding any qualification requirements under
19 Section 4c.

20 (d) Books and records transferred. All books, records,
21 papers, documents, contracts, and pending business pertaining
22 to the Medicaid Fraud Control Unit within the Illinois State
23 Police, including, but not limited to, material in electronic
24 or magnetic format, shall be transferred to the Office of the
25 Attorney General. The transfer of that information shall not,
26 however, violate any applicable confidentiality constraints.

1 (e) Unexpended moneys transferred. All unexpended
2 appropriation balances and other funds otherwise available to
3 the Illinois State Police for use in connection with the
4 Medicaid Fraud Control Unit shall be transferred and made
5 available to the Office of the Attorney General for use in
6 connection with the Medicaid Fraud Control Unit.

7 (f) Exercise of transferred powers; savings provisions.
8 The powers, duties, rights, and responsibilities relating to
9 the Medicaid Fraud Control Unit transferred from the Illinois
10 State Police to the Office of the Attorney General under this
11 Section are vested in and shall be exercised by the Office of
12 the Attorney General. Each act done in exercise of those
13 powers, duties, rights, and responsibilities shall have the
14 same legal effect as if done by the Illinois State Police or
15 its divisions, officers, or employees.

16 (g) Officers and others; duties; penalties. Every
17 employee, agent, or officer of the Office of the Attorney
18 General is subject to the same obligations and duties, and has
19 the same rights, as are prescribed by law in connection with
20 the exercise of any power, duty, right, or responsibility
21 transferred under this Section.

22 Every employee, agent, or officer of the Office of the
23 Attorney General is subject to the same penalty or penalties,
24 civil or criminal, as are prescribed by law for the same
25 offense by any employee, agent, or officer whose powers,
26 duties, rights, or responsibilities are transferred under this

1 Section.

2 (h) Reports, notices, or papers. Whenever reports or
3 notices are required to be made or given or papers or documents
4 furnished or served by any person to or upon the Illinois State
5 Police in connection with any of the functions relating to the
6 Medicaid Fraud Control Unit, the same shall be made, given,
7 furnished, or served in the same manner to or upon the Office
8 of the Attorney General.

9 (i) Acts and actions unaffected by transfer. This Section
10 does not affect any act completed, ratified, or canceled, or
11 any right occurring or established, before the effective date
12 of this amendatory Act of the 102nd General Assembly in
13 connection with any function transferred under this Section.
14 This Section does not affect any action or proceeding had or
15 commenced before the effective date of this amendatory Act of
16 the 102nd General Assembly in an administrative, civil, or
17 criminal cause regarding any function transferred under this
18 Section, but any such action or proceeding may be continued by
19 the Office of the Attorney General.

20 (j) For the purposes of the Successor Agency Act, the
21 Office of the Attorney General is declared to be the successor
22 agency of the Illinois State Police, but only with respect to
23 the functions that are transferred to the Office of the
24 Attorney General under this Section.

25 Section 10. The Illinois Act on the Aging is amended by

1 changing Section 4.04a as follows:

2 (20 ILCS 105/4.04a)

3 Sec. 4.04a. Illinois Long-Term Care Council.

4 (a) Purpose. The purpose of this Section is to ensure that
5 consumers over the age of 60 residing in facilities licensed
6 or regulated under the Nursing Home Care Act, Skilled Nursing
7 and Intermediate Care Facilities Code, Sheltered Care
8 Facilities Code, and the Illinois Veterans' Homes Code receive
9 high quality long-term care through an effective Illinois
10 Long-Term Care Council.

11 (b) Maintenance and operation of the Illinois Long-Term
12 Care Council.

13 (1) The Department shall develop a fair and impartial
14 process for recruiting and receiving nominations for
15 members for the Illinois Long-Term Care Council from the
16 State Long-Term Care Ombudsman, the area agencies on
17 aging, regional ombudsman programs, provider agencies, and
18 other public agencies, using a nomination form provided by
19 the Department.

20 (2) The Department shall appoint members to the
21 Illinois Long-Term Care Council in a timely manner.

22 (3) The Department shall consider and act in good
23 faith regarding the Illinois Long-Term Care Council's
24 annual report and its recommendations.

25 (4) The Director shall appoint to the Illinois

1 Long-Term Care Council at least 18 but not more than 25
2 members.

3 (c) Responsibilities of the State Long-Term Care
4 Ombudsman, area agencies on aging, regional long-term care
5 ombudsman programs, and provider agencies. The State Long-Term
6 Care Ombudsman and each area agency on aging, regional
7 long-term care ombudsman program, and provider agency shall
8 solicit names and recommend members to the Department for
9 appointment to the Illinois Long-Term Care Council.

10 (d) Powers and duties. The Illinois Long-Term Care Council
11 shall do the following:

12 (1) Make recommendations and comment on issues
13 pertaining to long-term care and the State Long-Term Care
14 Ombudsman Program to the Department.

15 (2) Advise the Department on matters pertaining to the
16 quality of life and quality of care in the continuum of
17 long-term care.

18 (3) Evaluate, comment on reports regarding, and make
19 recommendations on, the quality of life and quality of
20 care in long-term care facilities and on the duties and
21 responsibilities of the State Long-Term Care Ombudsman
22 Program.

23 (4) Prepare and circulate an annual report to the
24 Governor, the General Assembly, and other interested
25 parties concerning the duties and accomplishments of the
26 Illinois Long-Term Care Council and all other related

1 matters pertaining to long-term care and the protection of
2 residents' rights.

3 (5) Provide an opportunity for public input at each
4 scheduled meeting.

5 (6) Make recommendations to the Director, upon his or
6 her request, as to individuals who are capable of serving
7 as the State Long-Term Care Ombudsman and who should make
8 appropriate application for that position should it become
9 vacant.

10 (e) Composition and operation. The Illinois Long-Term Care
11 Council shall be composed of at least 18 but not more than 25
12 members concerned about the quality of life in long-term care
13 facilities and protecting the rights of residents, including
14 members from long-term care facilities. The State Long-Term
15 Care Ombudsman shall be a permanent member of the Long-Term
16 Care Council. Members shall be appointed for a 4-year term
17 with initial appointments staggered with 2-year, 3-year, and
18 4-year terms. A lottery will determine the terms of office for
19 the members of the first term. Members may be reappointed to a
20 term but no member may be reappointed to more than 2
21 consecutive terms. The Illinois Long-Term Care Council shall
22 meet a minimum of 3 times per calendar year.

23 (f) Member requirements. All members shall be individuals
24 who have demonstrated concern about the quality of life in
25 long-term care facilities. A minimum of 3 members must be
26 current or former residents of long-term care facilities or

1 the family member of a current or former resident of a
2 long-term care facility. A minimum of 2 members shall
3 represent current or former long-term care facility resident
4 councils or family councils. A minimum of 4 members shall be
5 selected from recommendations by organizations whose members
6 consist of long-term care facilities. A representative of
7 long-term care facility employees must also be included as a
8 member. A minimum of 2 members shall be selected from
9 recommendations of membership-based senior advocacy groups or
10 consumer organizations that engage solely in legal
11 representation on behalf of residents and immediate families.
12 There shall be non-voting State agency members on the
13 Long-Term Care Council from the following agencies: (i) the
14 Department of Veterans' Affairs; (ii) the Department of Human
15 Services; (iii) the Department of Public Health; (iv) the
16 Department on Aging; (v) the Department of Healthcare and
17 Family Services; (vi) the Office of the Attorney General
18 ~~Illinois State Police~~ Medicaid Fraud Control Unit; and (vii)
19 others as appropriate.

20 (Source: P.A. 95-331, eff. 8-21-07.)

21 Section 15. The Illinois Public Aid Code is amended by
22 changing Section 8A-7 as follows:

23 (305 ILCS 5/8A-7) (from Ch. 23, par. 8A-7)

24 Sec. 8A-7. Civil Remedies. (a) A person who receives

1 financial aid by means of a false statement, willful
2 misrepresentation or by his failure to notify the county
3 department or local governmental unit, as the case may be, of a
4 change in his status as required by Sections 11-18 and 11-19,
5 for the purpose of preventing the denial, cancellation or
6 suspension of his grant, or a variation in the amount thereof,
7 or by other fraudulent device, or a person who knowingly aids
8 or abets any person in obtaining financial aid for which he is
9 not eligible, shall be answerable to the county department or
10 the local governmental unit, as the case may be, for refunding
11 the entire amount of aid received. If the refund is not made,
12 it shall be recoverable in a civil action from the person who
13 received the aid, or from anyone who willfully aided such
14 person to obtain the aid. If an act which would be unlawful
15 under Section 8A-2 is proven, the court may as a penalty assess
16 an additional sum of money, not to exceed the entire amount of
17 aid provided, against the recipient or against any person who
18 willfully aided the recipient. If assessed, the penalty shall
19 be included in any judgment entered for the aid received, and
20 paid to the county department or the local governmental unit,
21 as the case may be. Upon entry of the judgment a lien shall
22 attach to all property and assets of such person until the
23 judgment is satisfied.

24 (b) Any person, firm, corporation, association, agency,
25 institution or other legal entity, other than an individual
26 recipient, that willfully, by means of a false statement or

1 representation, or by concealment of any material fact or by
2 other fraudulent scheme or device on behalf of himself or
3 others, obtains or attempts to obtain benefits or payments
4 under this Code to which he or it is not entitled, or in a
5 greater amount than that to which he or it is entitled, shall
6 be liable for repayment of any excess benefits or payments
7 received and, in addition to any other penalties provided by
8 law, civil penalties consisting of (1) the interest on the
9 amount of excess benefits or payments at the maximum legal
10 rate in effect on the date the payment was made to such person,
11 firm, corporation, association, agency, institution or other
12 legal entity for the period from the date upon which payment
13 was made to the date upon which repayment is made to the State,
14 (2) an amount not to exceed 3 times the amount of such excess
15 benefits or payments, and (3) the sum of \$2,000 for each
16 excessive claim for benefits or payments. Upon entry of a
17 judgment for repayment of any excess benefits or payments, or
18 for any civil penalties assessed by the court, a lien shall
19 attach to all property and assets of such person, firm,
20 corporation, association, agency, institution or other legal
21 entity until the judgment is satisfied.

22 (c) Civil recoveries provided for in this Section may be
23 recoverable in court proceedings initiated by the Attorney
24 General or, in actions involving a local governmental unit, by
25 the State's Attorney.

26 (d) Any person who commits the offense of vendor fraud or

1 recipient fraud as defined in Section 8A-2 and Section 8A-3 of
2 this Article shall forfeit, according to the provisions of
3 this subsection, any monies, profits or proceeds, and any
4 interest or property which the sentencing court determines he
5 has acquired or maintained, directly or indirectly, in whole
6 or in part as a result of such offense. Such person shall also
7 forfeit any interest in, securities of, claim against, or
8 contractual right of any kind which affords him a source of
9 influence over, any enterprise which he has established,
10 operated, controlled, conducted, or participated in
11 conducting, where his relationship to or connection with any
12 such thing or activity directly or indirectly, in whole or in
13 part, is traceable to any thing or benefit which he has
14 obtained or acquired through vendor fraud or recipient fraud.

15 Proceedings instituted pursuant to this subsection shall
16 be subject to and conducted in accordance with the following
17 procedures:

18 (1) The sentencing court shall, upon petition by the
19 Attorney General or State's Attorney at any time following
20 sentencing, conduct a hearing to determine whether any
21 property or property interest is subject to forfeiture under
22 this subsection. At the forfeiture hearing the People shall
23 have the burden of establishing, by a preponderance of the
24 evidence, that the property or property interests are subject
25 to such forfeiture.

26 (2) In any action brought by the People of the State of

1 Illinois under this Section, in which any restraining order,
2 injunction or prohibition or any other action in connection
3 with any property or interest subject to forfeiture under this
4 subsection is sought, the circuit court presiding over the
5 trial of the person charged with recipient fraud or vendor
6 fraud as defined in Sections 8A-2 or 8A-3 of this Article shall
7 first determine whether there is probable cause to believe
8 that the person so charged has committed the offense of
9 recipient fraud or vendor fraud and whether the property or
10 interest is subject to forfeiture under this subsection. To
11 make such a determination, prior to entering any such order,
12 the court shall conduct a hearing without a jury, at which the
13 People shall establish that there is (i) probable cause that
14 the person so charged has committed the offense of recipient
15 fraud or vendor fraud and (ii) probable cause that any
16 property or interest may be subject to forfeiture pursuant to
17 this subsection. Such hearing may be conducted simultaneously
18 with a preliminary hearing, if the prosecution is commenced by
19 information or complaint, or by motion of the People at any
20 stage in the proceedings. The court may accept a finding of
21 probable cause at a preliminary hearing following the filing
22 of an information charging the offense of recipient fraud or
23 vendor fraud as defined in Sections 8A-2 or 8A-3 or the return
24 of an indictment by a grand jury charging the offense of
25 recipient fraud or vendor fraud as defined in Sections 8A-2 or
26 8A-3 of this Article as sufficient evidence of probable cause

1 as provided in item (i) above. Upon such a finding, the circuit
2 court shall enter such restraining order, injunction or
3 prohibition, or shall take such other action in connection
4 with any such property or other interest subject to forfeiture
5 under this Act as is necessary to insure that such property is
6 not removed from the jurisdiction of the court, concealed,
7 destroyed or otherwise disposed of by the owner of that
8 property or interest prior to a forfeiture hearing under this
9 subsection. The Attorney General or State's Attorney shall
10 file a certified copy of such restraining order, injunction or
11 other prohibition with the recorder of deeds or registrar of
12 titles of each county where any such property of the defendant
13 may be located. No such injunction, restraining order or other
14 prohibition shall affect the rights of any bonafide purchaser,
15 mortgagee, judgement creditor or other lien holder arising
16 prior to the date of such filing. The court may, at any time,
17 upon verified petition by the defendant, conduct a hearing to
18 determine whether all or portions of any such property or
19 interest which the court previously determined to be subject
20 to forfeiture or subject to any restraining order, injunction,
21 or prohibition or other action, should be released. The court
22 may in its discretion release such property to the defendant
23 for good cause shown.

24 (3) Upon conviction of a person under this Article, the
25 court shall authorize the Director of the Illinois State
26 Police to seize all property or other interest declared

1 forfeited under this subsection upon such terms and conditions
2 as the court shall deem proper.

3 (4) The Director of the Illinois State Police is
4 authorized to sell all property forfeited and seized pursuant
5 to this subsection, unless such property is required by law to
6 be destroyed or is harmful to the public. After the deduction
7 of all requisite expenses of administration and sale, the
8 court shall order the Director to distribute to the Illinois
9 Department an amount from the proceeds of the forfeited
10 property, or monies forfeited or seized, which will satisfy
11 any unsatisfied court order of restitution entered pursuant to
12 a conviction under this Article. If the proceeds are less than
13 the amount necessary to satisfy the order of restitution, the
14 Director shall distribute to the Illinois Department the
15 entire amount of the remaining proceeds. The Director shall
16 distribute any remaining proceeds of such sale, along with any
17 monies forfeited or seized, in accordance with the following
18 schedules:

19 (a) 25% shall be distributed to the unit of local
20 government whose officers or employees conducted the
21 investigation into recipient fraud or vendor fraud and caused
22 the arrest or arrests and prosecution leading to the
23 forfeiture. Amounts distributed to units of local government
24 shall be used solely for enforcement matters relating to
25 detection, investigation or prosecution of recipient fraud or
26 vendor fraud as defined in Section 8A-2 or 8A-3 of this

1 Article. Where the investigation, arrest or arrests leading to
2 the prosecution and forfeiture is undertaken solely by the
3 Office of the Attorney General ~~Illinois State Police~~, the
4 portion provided hereunder shall be paid into the Medicaid
5 Fraud and Abuse Prevention Fund, which is hereby created in
6 the State treasury. Monies from this fund shall be used by the
7 Office of the Attorney General ~~Illinois State Police~~ for the
8 furtherance of enforcement matters relating to detection,
9 investigation or prosecution of recipient fraud or vendor
10 fraud. Monies directed to this fund shall be used in addition
11 to, and not as a substitute for, funds annually appropriated
12 to the Office of the Attorney General ~~Illinois State Police~~
13 for medicaid fraud enforcement.

14 (b) 25% shall be distributed to the county in which the
15 prosecution and petition for forfeiture resulting in the
16 forfeiture was instituted, and deposited in a special fund in
17 the county treasury and appropriated to the State's Attorney
18 for use solely in enforcement matters relating to detection,
19 investigation or prosecution of recipient fraud or vendor
20 fraud; however, if the Attorney General brought the
21 prosecution resulting in the forfeiture, the portion provided
22 hereunder shall be paid into the Medicaid Fraud and Abuse
23 Prevention Fund, to be used by the Medicaid Fraud Control Unit
24 of the Office of the Attorney General ~~Illinois State Police~~
25 for enforcement matters relating to detection, investigation
26 or prosecution of recipient fraud or vendor fraud. Where the

1 Attorney General and a State's Attorney have jointly
2 participated in any portion of the proceedings, 12.5% shall be
3 distributed to the county in which the prosecution resulting
4 in the forfeiture was instituted, and used as specified
5 herein, and 12.5% shall be paid into the Medicaid Fraud and
6 Abuse Prevention Fund, and used as specified herein.

7 (c) 50% shall be transmitted to the State Treasurer for
8 deposit in the General Revenue Fund.

9 (Source: P.A. 102-538, eff. 8-20-21.)