

AN ACT concerning the fraud.

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

Section 5. The Illinois Act on the Aging is amended by changing Section 4.04a as follows:

(20 ILCS 105/4.04a)

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

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

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

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

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

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

(4) The Director shall appoint to the Illinois Long-Term Care Council at least 18 but not more than 25 members.

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

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

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

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

(3) Evaluate, comment on reports regarding, and make recommendations on, the quality of life and quality of care in long-term care facilities and on the duties and

responsibilities of the State Long-Term Care Ombudsman Program.

(4) Prepare and circulate an annual report to the Governor, the General Assembly, and other interested parties concerning the duties and accomplishments of the Illinois Long-Term Care Council and all other related matters pertaining to long-term care and the protection of residents' rights.

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

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

(e) Composition and operation. The Illinois Long-Term Care Council shall be composed of at least 18 but not more than 25 members concerned about the quality of life in long-term care facilities and protecting the rights of residents, including members from long-term care facilities. The State Long-Term Care Ombudsman shall be a permanent member of the Long-Term Care Council. Members shall be appointed for a 4-year term with initial appointments staggered with 2-year, 3-year, and 4-year terms. A lottery will determine the terms of office for the members of the first term. Members may be reappointed to a term but no member may be reappointed to more than 2

consecutive terms. The Illinois Long-Term Care Council shall meet a minimum of 3 times per calendar year.

(f) Member requirements. All members shall be individuals who have demonstrated concern about the quality of life in long-term care facilities. A minimum of 3 members must be current or former residents of long-term care facilities or the family member of a current or former resident of a long-term care facility. A minimum of 2 members shall represent current or former long-term care facility resident councils or family councils. A minimum of 4 members shall be selected from recommendations by organizations whose members consist of long-term care facilities. A representative of long-term care facility employees must also be included as a member. A minimum of 2 members shall be selected from recommendations of membership-based senior advocacy groups or consumer organizations that engage solely in legal representation on behalf of residents and immediate families. There shall be non-voting State agency members on the Long-Term Care Council from the following agencies: (i) the Department of Veterans' Affairs; (ii) the Department of Human Services; (iii) the Department of Public Health; (iv) the Department on Aging; (v) the Department of Healthcare and Family Services; (vi) the Office of the Attorney General ~~Illinois State Police~~ Medicaid Fraud Control Unit; and (vii) others as appropriate.

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

Section 10. The Illinois Public Aid Code is amended by changing Sections 8A-7 and 12-4.41 as follows:

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

Sec. 8A-7. Civil Remedies. (a) A person who receives financial aid by means of a false statement, willful misrepresentation or by his failure to notify the county department or local governmental unit, as the case may be, of a change in his status as required by Sections 11-18 and 11-19, for the purpose of preventing the denial, cancellation or suspension of his grant, or a variation in the amount thereof, or by other fraudulent device, or a person who knowingly aids or abets any person in obtaining financial aid for which he is not eligible, shall be answerable to the county department or the local governmental unit, as the case may be, for refunding the entire amount of aid received. If the refund is not made, it shall be recoverable in a civil action from the person who received the aid, or from anyone who willfully aided such person to obtain the aid. If an act which would be unlawful under Section 8A-2 is proven, the court may as a penalty assess an additional sum of money, not to exceed the entire amount of aid provided, against the recipient or against any person who willfully aided the recipient. If assessed, the penalty shall be included in any judgment entered for the aid received, and paid to the county department or the local governmental unit,

as the case may be. Upon entry of the judgment a lien shall attach to all property and assets of such person until the judgment is satisfied.

(b) Any person, firm, corporation, association, agency, institution or other legal entity, other than an individual recipient, that willfully, by means of a false statement or representation, or by concealment of any material fact or by other fraudulent scheme or device on behalf of himself or others, obtains or attempts to obtain benefits or payments under this Code to which he or it is not entitled, or in a greater amount than that to which he or it is entitled, shall be liable for repayment of any excess benefits or payments received and, in addition to any other penalties provided by law, civil penalties consisting of (1) the interest on the amount of excess benefits or payments at the maximum legal rate in effect on the date the payment was made to such person, firm, corporation, association, agency, institution or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State, (2) an amount not to exceed 3 times the amount of such excess benefits or payments, and (3) the sum of \$2,000 for each excessive claim for benefits or payments. Upon entry of a judgment for repayment of any excess benefits or payments, or for any civil penalties assessed by the court, a lien shall attach to all property and assets of such person, firm, corporation, association, agency, institution or other legal

entity until the judgment is satisfied.

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

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

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

(1) The sentencing court shall, upon petition by the Attorney General or State's Attorney at any time following sentencing, conduct a hearing to determine whether any

property or property interest is subject to forfeiture under this subsection. At the forfeiture hearing the People shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to such forfeiture.

(2) In any action brought by the People of the State of Illinois under this Section, in which any restraining order, injunction or prohibition or any other action in connection with any property or interest subject to forfeiture under this subsection is sought, the circuit court presiding over the trial of the person charged with recipient fraud or vendor fraud as defined in Sections 8A-2 or 8A-3 of this Article shall first determine whether there is probable cause to believe that the person so charged has committed the offense of recipient fraud or vendor fraud and whether the property or interest is subject to forfeiture under this subsection. To make such a determination, prior to entering any such order, the court shall conduct a hearing without a jury, at which the People shall establish that there is (i) probable cause that the person so charged has committed the offense of recipient fraud or vendor fraud and (ii) probable cause that any property or interest may be subject to forfeiture pursuant to this subsection. Such hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People at any stage in the proceedings. The court may accept a finding of

probable cause at a preliminary hearing following the filing of an information charging the offense of recipient fraud or vendor fraud as defined in Sections 8A-2 or 8A-3 or the return of an indictment by a grand jury charging the offense of recipient fraud or vendor fraud as defined in Sections 8A-2 or 8A-3 of this Article as sufficient evidence of probable cause as provided in item (i) above. Upon such a finding, the circuit court shall enter such restraining order, injunction or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture under this Act as is necessary to insure that such property is not removed from the jurisdiction of the court, concealed, destroyed or otherwise disposed of by the owner of that property or interest prior to a forfeiture hearing under this subsection. The Attorney General or State's Attorney shall file a certified copy of such restraining order, injunction or other prohibition with the recorder of deeds or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order or other prohibition shall affect the rights of any bonafide purchaser, mortgagee, judgement creditor or other lien holder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant, conduct a hearing to determine whether all or portions of any such property or interest which the court previously determined to be subject to forfeiture or subject to any restraining order, injunction,

or prohibition or other action, should be released. The court may in its discretion release such property to the defendant for good cause shown.

(3) Upon conviction of a person under this Article, the court shall authorize the Director of the Illinois State Police to seize all property or other interest declared forfeited under this subsection upon such terms and conditions as the court shall deem proper.

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

(a) 25% shall be distributed to the unit of local government whose officers or employees conducted the

investigation into recipient fraud or vendor fraud and caused the arrest or arrests and prosecution leading to the forfeiture. Amounts distributed to units of local government shall be used solely for enforcement matters relating to detection, investigation or prosecution of recipient fraud or vendor fraud as defined in Section 8A-2 or 8A-3 of this Article. Where the investigation, arrest or arrests leading to the prosecution and forfeiture is undertaken solely by the Office of the Attorney General ~~Illinois State Police~~, the portion provided hereunder shall be paid into the Medicaid Fraud and Abuse Prevention Fund, which is hereby created in the State treasury. Monies from this fund shall be used by the Office of the Attorney General ~~Illinois State Police~~ for the furtherance of enforcement matters relating to detection, investigation or prosecution of recipient fraud or vendor fraud. Monies directed to this fund shall be used in addition to, and not as a substitute for, funds annually appropriated to the Office of the Attorney General ~~Illinois State Police~~ for medicaid fraud enforcement.

(b) 25% shall be distributed to the county in which the prosecution and petition for forfeiture resulting in the forfeiture was instituted, and deposited in a special fund in the county treasury and appropriated to the State's Attorney for use solely in enforcement matters relating to detection, investigation or prosecution of recipient fraud or vendor fraud; however, if the Attorney General brought the

prosecution resulting in the forfeiture, the portion provided hereunder shall be paid into the Medicaid Fraud and Abuse Prevention Fund, to be used by the Medicaid Fraud Control Unit of the Office of the Attorney General ~~Illinois State Police~~ for enforcement matters relating to detection, investigation or prosecution of recipient fraud or vendor fraud. Where the Attorney General and a State's Attorney have jointly participated in any portion of the proceedings, 12.5% shall be distributed to the county in which the prosecution resulting in the forfeiture was instituted, and used as specified herein, and 12.5% shall be paid into the Medicaid Fraud and Abuse Prevention Fund, and used as specified herein.

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

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

(305 ILCS 5/12-4.41)

Sec. 12-4.41. Public Benefits Fraud Protection Task Force.

(a) Purpose. The purpose of the Public Benefits Fraud Protection Task Force is to conduct a thorough review of the nature of public assistance fraud in the State of Illinois; to ascertain the feasibility of implementing a mechanism to determine the pervasiveness and frequency of public assistance fraud; to calculate the detriment of public assistance fraud to the financial status and socio-economic status of public aid recipients specifically and Illinois taxpayers generally;

and to determine if more stringent penalties or compassionate procedures are necessary.

(b) Definitions. As used in this Section:

"Task Force" means the Public Benefits Fraud Protection Task Force.

"Public assistance" or "public aid" includes, without limitation, Medicaid, TANF, the Illinois LINK Program, General Assistance, Transitional Assistance, the Supplemental Nutrition Assistance Program, and the Child Care Assistance Program.

(c) The Public Benefits Fraud Protection Task Force. The Public Benefits Fraud Protection Task Force is created. The Task Force shall be composed of 17 members appointed as follows:

(1) One member of the Illinois Senate appointed by the President of the Senate, who shall be co-chair to the Task Force;

(2) One member of the Illinois Senate appointed by the Senate Minority Leader;

(3) One member of the Illinois House of Representatives appointed by the Speaker of the House of Representatives, who shall be co-chair to the Task Force;

(4) One member of the Illinois House of Representatives appointed by the House Minority Leader;

(5) The following persons, or their designees: the Director of Public Health, the Director of Healthcare and

Family Services, and the Secretary of Human Services;

(6) The Director of the Illinois Department on Aging, or his or her designee;

(7) The Executive Inspector General appointed by the Governor, or his or her designee;

(8) The Inspector General of the Illinois Department of Human Services, or his or her designee;

(9) A representative from the Office of the Attorney General ~~Illinois State Police~~ Medicaid Fraud Control Unit;

(10) Three persons, who are not currently employed by a State agency, appointed by the Secretary of Human Services, one of whom shall be a person with professional experience in child care issues, one of whom shall be a person with knowledge and experience in legal aid services, and one of whom shall be a person with knowledge and experience in poverty law;

(11) The Attorney General, or his or her designee;

(12) A representative of a union representing front line State employees who administer public benefits programs; and

(13) A representative of a statewide business association.

(d) Compensation and qualifications. Members shall serve without compensation and shall be adults and residents of Illinois.

(e) Appointments. Appointments shall be made 90 days from

the effective date of this amendatory Act of the 96th General Assembly.

(f) Hearings. The Task Force shall solicit comments from stakeholders and hold public hearings before filing any report required by this Section. At the public hearings, the Task Force shall allow interested persons to present their views and comments. The Task Force shall submit all reports required by this Section to the Governor and the General Assembly. In addition to the reports required by this Section, the Task Force may provide, at its discretion, interim reports and recommendations. The Department of Human Services shall provide administrative support to the Task Force.

(g) Task Force duties. The Task Force shall gather information and make recommendations relating to at least the following topics in relation to public assistance fraud:

- (1) Reviews of provider billing of public aid claims.
- (2) Reviews of recipient utilization of public aid.
- (3) Protocols for investigating recipient public aid fraud.
- (4) Protocols for investigating provider public aid fraud.
- (5) Reporting of alleged fraud by private citizens through qui tam actions.
- (6) Examination of current fraud prevention measures which may hinder legitimate aid claims.
- (7) Coordination between relevant agencies in fraud

investigation.

(8) Financial audit of the current costs borne by aid recipients and Illinois government through fraud.

(9) Examination of enhanced penalties for fraudulent recipients and providers.

(10) Enhanced whistleblower protections.

(11) Voluntary assistance from businesses and community groups in efforts to curb fraud.

(h) Task Force recommendations. Any of the findings, recommendations, public postings, and other relevant information regarding the Task Force shall be made available on the Department of Human Services' website.

(i) Reporting requirements. The Task Force shall submit findings and recommendations to the Governor and the General Assembly by December 31, 2011, including any necessary implementing legislation, and recommendations for changes to policies, rules, or procedures that are not incorporated in the implementing legislation.

(j) Dissolution of Task Force. The Task Force shall be dissolved 90 days after its report has been submitted to the Governor's Office and the General Assembly.

(Source: P.A. 96-1346, eff. 1-1-11; 97-333, eff. 8-12-11.)

Section 15. The Illinois False Claims Act is amended by changing Sections 2, 4, 6, and 8 as follows:

(740 ILCS 175/2) (from Ch. 127, par. 4102)

Sec. 2. Definitions. As used in this Act:

(a) "State" means the State of Illinois; any agency of State government; the system of State colleges and universities, any school district, community college district, county, municipality, municipal corporation, unit of local government, and any combination of the above under an intergovernmental agreement that includes provisions for a governing body of the agency created by the agreement.

(b) "Guard" means the Illinois National Guard.

(c) "Investigation" means any inquiry conducted by any investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this Act.

(d) "Investigator" means a person who is charged by the Attorney General ~~or the Illinois State Police~~ with the duty of conducting any investigation under this Act, or any officer or employee of the State acting under the direction and supervision of the Attorney General ~~or the Illinois State Police~~, in the course of an investigation.

(e) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery.

(f) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i) (1) of Section 6.

(g) "Product of discovery" includes:

(1) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(2) any digest, analysis, selection, compilation, or derivation of any item listed in paragraph (1); and

(3) any index or other manner of access to any item listed in paragraph (1).

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

(740 ILCS 175/4) (from Ch. 127, par. 4104)

Sec. 4. Civil actions for false claims.

(a) Responsibilities of the Attorney General ~~and the Illinois State Police~~. The Attorney General ~~or the Illinois State Police~~ shall diligently investigate a civil violation under Section 3. If the Attorney General finds that a person violated or is violating Section 3, the Attorney General may bring a civil action under this Section against the person.

The State shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred by the

Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements.

(b) Actions by private persons.

(1) A person may bring a civil action for a violation of Section 3 for the person and for the State. The action shall be brought in the name of the State. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the State. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The State may, for good cause shown, move the

court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this Section until 20 days after the complaint is unsealed and served upon the defendant.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the State shall:

(A) proceed with the action, in which case the action shall be conducted by the State; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection (b), no person other than the State may intervene or bring a related action based on the facts underlying the pending action.

(c) Rights of the parties to Qui Tam actions.

(1) If the State proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2) (A) The State may dismiss the action

notwithstanding the objections of the person initiating the action if the person has been notified by the State of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the State's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

(i) limiting the number of witnesses the person may call:

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted

participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the State elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the State's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon a showing of good cause.

(4) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action

will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this Section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this Section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) Award to Qui Tam plaintiff.

(1) If the State proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15% but not more than 25% of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which

the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Auditor General's report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10% of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph (1) shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. The State shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in

court orders or settlement agreements.

(2) If the State does not proceed with an action under this Section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25% and not more than 30% of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements.

(3) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of Section 3 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this

subsection (d), taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section 3, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the State to continue the action, represented by the Attorney General.

(4) If the State does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) Certain actions barred.

(1) No court shall have jurisdiction over an action brought by a former or present member of the Guard under subsection (b) of this Section against a member of the Guard arising out of such person's service in the Guard.

(2) (A) No court shall have jurisdiction over an action brought under subsection (b) against a member of the General Assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information

known to the State when the action was brought.

(B) For purposes of this paragraph (2), "exempt official" means any of the following officials in State service: directors of departments established under the Civil Administrative Code of Illinois, the Adjutant General, the Assistant Adjutant General, the Director of the State Emergency Services and Disaster Agency, members of the boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate.

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party.

(4) (A) The court shall dismiss an action or claim under this Section, unless opposed by the State, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(i) in a criminal, civil, or administrative hearing in which the State or its agent is a party;

(ii) in a State legislative, State Auditor General, or other State report, hearing, audit, or investigation; or

(iii) from the news media,

unless the action is brought by the Attorney General or

the person bringing the action is an original source of the information.

(B) For purposes of this paragraph (4), "original source" means an individual who either (i) prior to a public disclosure under subparagraph (A) of this paragraph (4), has voluntarily disclosed to the State the information on which allegations or transactions in a claim are based, or (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the State before filing an action under this Section.

(f) State not liable for certain expenses. The State is not liable for expenses which a person incurs in bringing an action under this Section.

(g) Relief from retaliatory actions.

(1) In general, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this Section or other efforts to stop one or more violations of this Act.

(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection (g) may be brought in the appropriate circuit court for the relief provided in this subsection (g).

(3) A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.

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

(740 ILCS 175/6) (from Ch. 127, par. 4106)

Sec. 6. Subpoenas.

(a) In general.

(1) Issuance and service. Whenever the Attorney General, ~~or a designee (for purposes of this Section),~~ has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to an investigation, the Attorney General, ~~or a designee,~~ may, before commencing a civil proceeding under this Act or making an election under paragraph (4) of subsection (b) of Section 4, issue in

writing and cause to be served upon such person, a subpoena requiring such person:

(A) to produce such documentary material for inspection and copying,

(B) to answer, in writing, written interrogatories with respect to such documentary material or information,

(C) to give oral testimony concerning such documentary material or information, or

(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may ~~delegate the authority to~~ issue subpoenas under this subsection (a) ~~to the Department of State Police subject to conditions as the Attorney General deems appropriate.~~ Whenever a subpoena is an express demand for any product of discovery, the Attorney General ~~or his or her delegate~~ shall cause to be served, in any manner authorized by this Section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General ~~or a designee~~ under this Section may be shared with any qui tam relator if the Attorney General ~~or designee~~ determines it necessary as part of any False Claims Act investigation.

(1.5) Where a subpoena requires the production of

documentary material, the respondent shall produce the original of the documentary material, provided, however, that the Attorney General, ~~or a designee,~~ may agree that copies may be substituted for the originals. All documentary material kept or stored in electronic form, including electronic mail, shall be produced in native format, as kept in the normal course of business, or as otherwise directed by the Attorney General ~~or designee.~~ The production of documentary material shall be made at the respondent's expense.

(2) Contents and deadlines. Each subpoena issued under paragraph (1):

(A) Shall state the nature of the conduct constituting an alleged violation that is under investigation and the applicable provision of law alleged to be violated.

(B) Shall identify the individual causing the subpoena to be served and to whom communications regarding the subpoena should be directed.

(C) Shall state the date, place, and time at which the person is required to appear, produce written answers to interrogatories, produce documentary material or give oral testimony. The date shall not be less than 10 days from the date of service of the subpoena. Compliance with the subpoena shall be at the Office of the Attorney General in either the

Springfield or Chicago location or at other location by agreement.

(D) If the subpoena is for documentary material or interrogatories, shall describe the documents or information requested with specificity.

(E) Shall notify the person of the right to be assisted by counsel.

(F) Shall advise that the person has 20 days from the date of service or up until the return date specified in the demand, whichever date is earlier, to move, modify, or set aside the subpoena pursuant to subparagraph (j) (2) (A) of this Section.

(b) Protected material or information.

(1) In general. A subpoena issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under:

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of this State to aid in a grand jury investigation; or

(B) the standards applicable to discovery requests under the Code of Civil Procedure, to the extent that the application of such standards to any such subpoena is appropriate and consistent with the provisions and

purposes of this Section.

(2) Effect on other orders, rules, and laws. Any such subpoena which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this Section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such subpoena does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(c) Service in general. Any subpoena issued under subsection (a) may be served by any person so authorized by the Attorney General or by any person authorized to serve process on individuals within Illinois, through any method prescribed in the Code of Civil Procedure or as otherwise set forth in this Act.

(d) Service upon legal entities and natural persons.

(1) Legal entities. Service of any subpoena issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by:

(A) delivering an executed copy of such subpoena or petition to any partner, executive officer, managing agent, general agent, or registered agent of the partnership, corporation, association or entity;

(B) delivering an executed copy of such subpoena or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) depositing an executed copy of such subpoena or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity as its principal office or place of business.

(2) Natural person. Service of any such subpoena or petition may be made upon any natural person by:

(A) delivering an executed copy of such subpoena or petition to the person; or

(B) depositing an executed copy of such subpoena or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(e) Proof of service. A verified return by the individual serving any subpoena issued under subsection (a) or any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

(f) Documentary material.

(1) Sworn certificates. The production of documentary material in response to a subpoena served under this Section shall be made under a sworn certificate, in such form as the subpoena designates, by:

(A) in the case of a natural person, the person to whom the subpoena is directed, or

(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the subpoena is directed has been produced and made available to the Attorney General.

(2) Production of materials. Any person upon whom any subpoena for the production of documentary material has been served under this Section shall make such material available for inspection and copying to the Attorney General at the place designated in the subpoena, or at such other place as the Attorney General and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such subpoena, or on such later date as the Attorney

General may prescribe in writing. Such person may, upon written agreement between the person and the Attorney General, substitute copies for originals of all or any part of such material.

(g) Interrogatories. Each interrogatory in a subpoena served under this Section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the subpoena designates by:

(1) in the case of a natural person, the person to whom the subpoena is directed, or

(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the subpoena and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(h) Oral examinations.

(1) Procedures. The examination of any person pursuant to a subpoena for oral testimony served under this Section shall be taken before an officer authorized to administer

oaths and affirmations by the laws of this State or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a certified copy of the transcript of the testimony in accordance with the instructions of the Attorney General. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Code of Civil Procedure.

(2) Persons present. The investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the State, any person who may be agreed upon by the attorney for the State and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) Where testimony taken. The oral testimony of any person taken pursuant to a subpoena served under this Section shall be taken in the county within which such

person resides, is found, or transacts business, or in such other place as may be agreed upon by the Attorney General and such person.

(4) Transcript of testimony. When the testimony is fully transcribed, the Attorney General or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to review and correct the transcript, in accordance with the rules applicable to deposition witnesses in civil cases. Upon payment of reasonable charges, the Attorney General shall furnish a copy of the transcript to the witness, except that the Attorney General may, for good cause, limit the witness to inspection of the official transcript of the witness' testimony.

(5) Conduct of oral testimony.

(A) Any person compelled to appear for oral testimony under a subpoena issued under subsection (a) may be accompanied, represented, and advised by counsel, who may raise objections based on matters of privilege in accordance with the rules applicable to depositions in civil cases. If such person refuses to answer any question, a petition may be filed in circuit court under subsection (j)(1) for an order compelling such person to answer such question.

(B) If such person refuses any question on the

grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with Article 106 of the Code of Criminal Procedure of 1963.

(6) Witness fees and allowances. Any person appearing for oral testimony under a subpoena issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the circuit court.

(i) Custodians of documents, answers, and transcripts.

(1) Designation. The Attorney General or his or her delegate shall serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Section.

(2) Except as otherwise provided in this Section, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual, except as determined necessary by the Attorney General and subject to the conditions imposed by him or her for effective enforcement of the laws of this State, or as otherwise provided by court order.

(3) Conditions for return of material. If any documentary material has been produced by any person in the course of any investigation pursuant to a subpoena

under this Section and:

(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any State agency involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(j) Judicial proceedings.

(1) Petition for enforcement. Whenever any person fails to comply with any subpoena issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the circuit court of any county in which such person resides, is found, or transacts business, or the circuit court of the county in which an action filed pursuant to Section 4 of this Act is pending if the action relates to the subject matter of the

subpoena and serve upon such person a petition for an order of such court for the enforcement of the subpoena.

(2) Petition to modify or set aside subpoena.

(A) Any person who has received a subpoena issued under subsection (a) may file, in the circuit court of any county within which such person resides, is found, or transacts business, and serve upon the Attorney General a petition for an order of the court to modify or set aside such subpoena. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the circuit court of the county in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph (A) must be filed:

(i) within 20 days after the date of service of the subpoena, or at any time before the return date specified in the subpoena, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by the Attorney General.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the subpoena to comply with the provisions of this Section or upon any constitutional or other legal

right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the subpoena, in whole or in part, except that the person filing the petition shall comply with any portion of the subpoena not sought to be modified or set aside.

(3) Petition to modify or set aside demand for product of discovery. In the case of any subpoena issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the circuit court of the county in which the proceeding in which such discovery was obtained is or was last pending, a petition for an order of such court to modify or set aside those portions of the subpoena requiring production of any such product of discovery, subject to the same terms, conditions, and limitations set forth in subparagraph (j)(2) of this Section.

(4) Jurisdiction. Whenever any petition is filed in any circuit court under this subsection (j), such court shall have jurisdiction to hear and determine the matter so presented, and to enter such orders as may be required to carry out the provisions of this Section. Any final order so entered shall be subject to appeal in the same manner as appeals of other final orders in civil matters.

Any disobedience of any final order entered under this Section by any court shall be punished as a contempt of the court.

(k) Disclosure exemption. Any documentary material, answers to written interrogatories, or oral testimony provided under any subpoena issued under subsection (a) shall be exempt from disclosure under the Illinois Administrative Procedure Act.

(Source: P.A. 96-1304, eff. 7-27-10.)

(740 ILCS 175/8) (from Ch. 127, par. 4108)

Sec. 8. Funds; Grants.

(a) There is hereby created the State Whistleblower Reward and Protection Fund to be held outside of the State Treasury with the State Treasurer as custodian. All proceeds of an action or settlement of a claim brought under this Act shall be deposited in the Fund. Any attorneys' fees, expenses, and costs paid by or awarded against any defendant pursuant to Section 4 of this Act shall not be considered part of the proceeds to be deposited in the Fund.

(b) For all cases resolved before October 1, 2023, monies ~~Monies~~ in the Fund shall be allocated as follows: One-sixth of the monies shall be paid to the Attorney General Whistleblower Reward and Protection Fund, which is hereby created as a special fund in the State Treasury, and one-sixth of the monies shall be paid to the State Police Whistleblower Reward

and Protection Fund, which is hereby created as a special fund in the State Treasury, for State law enforcement purposes. The remaining two-thirds of the monies in the Fund shall be used for payment of awards to Qui Tam plaintiffs and as otherwise specified in this Act, with any remainder to the General Revenue Fund. The Attorney General shall direct the State Treasurer to make disbursement of funds.

(c) For all cases resolved on or after October 1, 2023, monies in the Fund shall be allocated as follows: One-third of the monies shall be paid to the Attorney General Whistleblower Reward and Protection Fund. The remaining two-thirds of the monies in the Fund shall be used for payment of awards to Qui Tam plaintiffs and as otherwise specified in this Act, with any remainder to the General Revenue Fund. The Attorney General shall direct the State Treasurer to make disbursement of funds.

(Source: P.A. 101-148, eff. 7-26-19.)

Section 99. Effective date. This Act takes effect October 1, 2023.