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LEGISLATIVE ACTION

Senate

House

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03/31/2010 02:01 PM

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Senator Negron moved the following:

**Senate Amendment (with title amendment)**

Delete line 1074

and insert:

Section 4. Section 624.35, Florida Statutes, is created to read:

624.35 Short title.—Sections 624.35-624.352 may be cited as the “Medicaid and Public Assistance Fraud Strike Force Act.”

Section 5. Section 624.351, Florida Statutes, is created to read:

624.351 Medicaid and Public Assistance Fraud Strike Force.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that there is a need to develop and implement a statewide strategy to



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14 coordinate state and local agencies, law enforcement entities,  
15 and investigative units in order to increase the effectiveness  
16 of programs and initiatives dealing with the prevention,  
17 detection, and prosecution of Medicaid and public assistance  
18 fraud.

19 (2) ESTABLISHMENT.—The Medicaid and Public Assistance Fraud  
20 Strike Force is created within the department to oversee and  
21 coordinate state and local efforts to eliminate Medicaid and  
22 public assistance fraud and to recover state and federal funds.  
23 The strike force shall serve in an advisory capacity and provide  
24 recommendations and policy alternatives to the Chief Financial  
25 Officer.

26 (3) MEMBERSHIP.—The strike force shall consist of the  
27 following 11 members who may not designate anyone to serve in  
28 their place:

29 (a) The Chief Financial Officer, who shall serve as chair.

30 (b) The Attorney General, who shall serve as vice chair.

31 (c) The executive director of the Department of Law  
32 Enforcement.

33 (d) The Secretary of Health Care Administration.

34 (e) The Secretary of Children and Family Services.

35 (f) The State Surgeon General.

36 (g) Five members appointed by the Chief Financial Officer,  
37 consisting of two sheriffs, two chiefs of police, and one state  
38 attorney. When making these appointments, the Chief Financial  
39 Officer shall consider representation by geography, population,  
40 ethnicity, and other relevant factors in order to ensure that  
41 the membership of the strike force is representative of the  
42 state as a whole.



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43 (4) TERMS OF MEMBERSHIP; COMPENSATION; STAFF.—

44 (a) The five members appointed by the Chief Financial  
45 Officer will serve 4-year terms; however, for the purpose of  
46 providing staggered terms, of the initial appointments, two  
47 members will be appointed to a 2-year term, two members will be  
48 appointed to a 3-year term, and one member will be appointed to  
49 a 4-year term. The remaining members are standing members of the  
50 strike force and may not serve beyond the time he or she holds  
51 the position that was the basis for strike force membership. A  
52 vacancy shall be filled in the same manner as the original  
53 appointment but only for the unexpired term.

54 (b) The Legislature finds that the strike force serves a  
55 legitimate state, county, and municipal purpose and that service  
56 on the strike force is consistent with a member's principal  
57 service in a public office or employment. Therefore membership  
58 on the strike force does not disqualify a member from holding  
59 any other public office or from being employed by a public  
60 entity, except that a member of the Legislature may not serve on  
61 the strike force.

62 (c) Members of the strike force shall serve without  
63 compensation, but are entitled to reimbursement for per diem and  
64 travel expenses pursuant to s. 112.061. Reimbursements may be  
65 paid from appropriations provided to the department by the  
66 Legislature for the purposes of this section.

67 (d) The Chief Financial Officer shall appoint a chief of  
68 staff for the strike force who must have experience, education,  
69 and expertise in the fields of law, prosecution, or fraud  
70 investigations and shall serve at the pleasure of the Chief  
71 Financial Officer. The department shall provide the strike force



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72 with staff necessary to assist the strike force in the  
73 performance of its duties.

74 (5) MEETINGS.—The strike force shall hold its  
75 organizational session by March 1, 2011. Thereafter, the strike  
76 force shall meet at least four times per year. Additional  
77 meetings may be held if the chair determines that extraordinary  
78 circumstances require an additional meeting. Members may appear  
79 by electronic means. A majority of the members of the strike  
80 force constitutes a quorum.

81 (6) STRIKE FORCE DUTIES.—The strike force shall provide  
82 advice and make recommendations, as necessary, to the Chief  
83 Financial Officer.

84 (a) The strike force may advise the Chief Financial Officer  
85 on initiatives that include, but are not limited to:

86 1. Conducting a census of local, state, and federal efforts  
87 to address Medicaid and public assistance fraud in this state,  
88 including fraud detection, prevention, and prosecution, in order  
89 to discern overlapping missions, maximize existing resources,  
90 and strengthen current programs.

91 2. Developing a strategic plan for coordinating and  
92 targeting state and local resources for preventing and  
93 prosecuting Medicaid and public assistance fraud. The plan must  
94 identify methods to enhance multiagency efforts that contribute  
95 to achieving the state's goal of eliminating Medicaid and public  
96 assistance fraud.

97 3. Identifying methods to implement innovative technology  
98 and data sharing in order to detect and analyze Medicaid and  
99 public assistance fraud with speed and efficiency.

100 4. Establishing a program to provide grants to state and



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101 local agencies that develop and implement effective Medicaid and  
102 public assistance fraud prevention, detection, and investigation  
103 programs, which are evaluated by the strike force and ranked by  
104 their potential to contribute to achieving the state's goal of  
105 eliminating Medicaid and public assistance fraud. The grant  
106 program may also provide startup funding for new initiatives by  
107 local and state law enforcement or administrative agencies to  
108 combat Medicaid and public assistance fraud.

109 5. Developing and promoting crime prevention services and  
110 educational programs that serve the public, including, but not  
111 limited to, a well-publicized rewards program for the  
112 apprehension and conviction of criminals who perpetrate Medicaid  
113 and public assistance fraud.

114 6. Providing grants, contingent upon appropriation, for  
115 multiagency or state and local Medicaid and public assistance  
116 fraud efforts, which include, but are not limited to:

117 a. Providing for a Medicaid and public assistance fraud  
118 prosecutor in the Office of the Statewide Prosecutor.

119 b. Providing assistance to state attorneys for support  
120 services or equipment, or for the hiring of assistant state  
121 attorneys, as needed, to prosecute Medicaid and public  
122 assistance fraud cases.

123 c. Providing assistance to judges for support services or  
124 for the hiring of senior judges, as needed, so that Medicaid and  
125 public assistance fraud cases can be heard expeditiously.

126 (b) The strike force shall receive periodic reports from  
127 state agencies, law enforcement officers, investigators,  
128 prosecutors, and coordinating teams regarding Medicaid and  
129 public assistance criminal and civil investigations. Such



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130 reports may include discussions regarding significant factors  
131 and trends relevant to a statewide Medicaid and public  
132 assistance fraud strategy.

133 (7) REPORTS.—The strike force shall annually prepare and  
134 submit a report on its activities and recommendations, by  
135 October 1, to the President of the Senate, the Speaker of the  
136 House of Representatives, the Governor, and the chairs of the  
137 House of Representatives and Senate committees that have  
138 substantive jurisdiction over Medicaid and public assistance  
139 fraud.

140 Section 6. Section 624.352, Florida Statutes, is created to  
141 read:

142 624.352 Interagency agreements to detect and deter Medicaid  
143 and public assistance fraud.—

144 (1) The Chief Financial Officer shall prepare model  
145 interagency agreements for the coordination of prevention,  
146 investigation, and prosecution of Medicaid and public assistance  
147 fraud to be known as "Strike Force" agreements. Parties to such  
148 agreements may include any agency that is headed by a Cabinet  
149 officer, the Governor, the Governor and Cabinet, a collegial  
150 body, or any federal, state, or local law enforcement agency.

151 (2) The agreements must include, but are not limited to:

152 (a) Establishing the agreement's purpose, mission,  
153 authority, organizational structure, procedures, supervision,  
154 operations, deputations, funding, expenditures, property and  
155 equipment, reports and records, assets and forfeitures, media  
156 policy, liability, and duration.

157 (b) Requiring that parties to an agreement have appropriate  
158 powers and authority relative to the purpose and mission of the



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159 agreement.

160 Section 7. Section 16.59, Florida Statutes, is amended to  
161 read:

162 16.59 Medicaid fraud control.—The Medicaid Fraud Control  
163 Unit ~~There~~ is created in the Department of Legal Affairs to the  
164 ~~Medicaid Fraud Control Unit, which may~~ investigate all  
165 violations of s. 409.920 and any criminal violations discovered  
166 during the course of those investigations. The Medicaid Fraud  
167 Control Unit may refer any criminal violation so uncovered to  
168 the appropriate prosecuting authority. The offices of the  
169 Medicaid Fraud Control Unit, ~~and the offices of the~~ Agency for  
170 Health Care Administration Medicaid program integrity program,  
171 and the Divisions of Insurance Fraud and Public Assistance Fraud  
172 within the Department of Financial Services shall, to the extent  
173 possible, be collocated; however, positions dedicated to  
174 Medicaid managed care fraud within the Medicaid Fraud Control  
175 Unit shall be collocated with the Division of Insurance Fraud.  
176 The Agency for Health Care Administration, ~~and~~ the Department of  
177 Legal Affairs, and the Divisions of Insurance Fraud and Public  
178 Assistance Fraud within the Department of Financial Services  
179 shall conduct joint training and other joint activities designed  
180 to increase communication and coordination in recovering  
181 overpayments.

182 Section 8. Paragraph (o) is added to subsection (2) of  
183 section 20.121, Florida Statutes, to read:

184 20.121 Department of Financial Services.—There is created a  
185 Department of Financial Services.

186 (2) DIVISIONS.—The Department of Financial Services shall  
187 consist of the following divisions:



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188        (o) The Division of Public Assistance Fraud.

189        Section 9. Paragraph (b) of subsection (7) of section  
190 411.01, Florida Statutes, is amended to read:

191        411.01 School readiness programs; early learning  
192 coalitions.—

193        (7) PARENTAL CHOICE.—

194        (b) If it is determined that a provider has provided any  
195 cash to the beneficiary in return for receiving the purchase  
196 order, the early learning coalition or its fiscal agent shall  
197 refer the matter to the Department of Financial Services  
198 pursuant to s. 414.411 ~~Division of Public Assistance Fraud~~ for  
199 investigation.

200        Section 10. Subsection (2) of section 414.33, Florida  
201 Statutes, is amended to read:

202        414.33 Violations of food stamp program.—

203        (2) In addition, the department shall establish procedures  
204 for referring ~~to the Department of Law Enforcement~~ any case that  
205 involves a suspected violation of federal or state law or rules  
206 governing the administration of the food stamp program to the  
207 Department of Financial Services pursuant to s. 414.411.

208        Section 11. Subsection (9) of section 414.39, Florida  
209 Statutes, is amended to read:

210        414.39 Fraud.—

211        (9) All records relating to investigations of public  
212 assistance fraud in the custody of the department and the Agency  
213 for Health Care Administration are available for examination by  
214 the Department of Financial Services ~~Law Enforcement~~ pursuant to  
215 s. 414.411 ~~943.401~~ and are admissible into evidence in  
216 proceedings brought under this section as business records





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217 within the meaning of s. 90.803(6).

218 Section 12. Section 943.401, Florida Statutes, is  
219 transferred, renumbered as section 414.411, Florida Statutes,  
220 and amended to read:

221 414.411 ~~943.401~~ Public assistance fraud.—

222 (1) ~~(a)~~ The Department of Financial Services ~~Law Enforcement~~  
223 shall investigate all public assistance provided to residents of  
224 the state or provided to others by the state. In the course of  
225 such investigation the department ~~of Law Enforcement~~ shall  
226 examine all records, including electronic benefits transfer  
227 records and make inquiry of all persons who may have knowledge  
228 as to any irregularity incidental to the disbursement of public  
229 moneys, food stamps, or other items or benefits authorizations  
230 to recipients.

231 ~~(b)~~ All public assistance recipients, as a condition  
232 precedent to qualification for public assistance ~~received and as~~  
233 ~~defined under the provisions of~~ chapter 409, chapter 411, or  
234 this chapter 414, must ~~shall~~ first give in writing, to the  
235 Agency for Health Care Administration, the Department of Health,  
236 the Agency for Workforce Innovation, and the Department of  
237 Children and Family Services, as appropriate, and to the  
238 Department of Financial Services ~~Law Enforcement~~, consent to  
239 make inquiry of past or present employers and records, financial  
240 or otherwise.

241 (2) In the conduct of such investigation the Department of  
242 Financial Services ~~Law Enforcement~~ may employ persons having  
243 such qualifications as are useful in the performance of this  
244 duty.

245 (3) The results of such investigation shall be reported by



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246 the Department of Financial Services ~~Law Enforcement~~ to the  
247 appropriate legislative committees, the Agency for Health Care  
248 Administration, the Department of Health, the Agency for  
249 Workforce Innovation, and the Department of Children and Family  
250 Services, and to such others as the department ~~of Law~~  
251 ~~Enforcement~~ may determine.

252 (4) The Department of Health and the Department of Children  
253 and Family Services shall report to the Department of Financial  
254 Services ~~Law Enforcement~~ the final disposition of all cases  
255 wherein action has been taken pursuant to s. 414.39, based upon  
256 information furnished by the Department of Financial Services  
257 ~~Law Enforcement~~.

258 (5) All lawful fees and expenses of officers and witnesses,  
259 expenses incident to taking testimony and transcripts of  
260 testimony and proceedings are a proper charge to the Department  
261 of Financial Services ~~Law Enforcement~~.

262 (6) The provisions of this section shall be liberally  
263 construed in order to carry out effectively the purposes of this  
264 section in the interest of protecting public moneys and other  
265 public property.

266 Section 13. Review of the Medicaid fraud and abuse  
267 processes.—

268 (1) The Auditor General and the Office of Program Policy  
269 Analysis and Government Accountability shall review and evaluate  
270 the Agency for Health Care Administration's Medicaid fraud and  
271 abuse systems, including the Medicaid program integrity program.  
272 The reviewers may access Medicaid-related information and data  
273 from the Attorney General's Medicaid Fraud Control Unit, the  
274 Department of Health, the Department of Elderly Affairs, the



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275 Agency for Persons with Disabilities, and the Department of  
276 Children and Family Services, as necessary, to conduct the  
277 review. The review must include, but is not limited to:

278 (a) An evaluation of current Medicaid policies and the  
279 Medicaid fiscal agent;

280 (b) An analysis of the Medicaid fraud and abuse prevention  
281 and detection processes, including agency contracts, Medicaid  
282 databases, and internal control risk assessments;

283 (c) A comprehensive evaluation of the effectiveness of the  
284 current laws, rules, and contractual requirements that govern  
285 Medicaid managed care entities;

286 (d) An evaluation of the agency's Medicaid managed care  
287 oversight processes;

288 (e) Recommendations to improve the Medicaid claims  
289 adjudication process, to increase the overall efficiency of the  
290 Medicaid program, and to reduce Medicaid overpayments; and

291 (f) Operational and legislative recommendations to improve  
292 the prevention and detection of fraud and abuse in the Medicaid  
293 managed care program.

294 (2) The Auditor General's Office and the Office of Program  
295 Policy Analysis and Government Accountability may contract with  
296 technical consultants to assist in the performance of the  
297 review. The Auditor General and the Office of Program Policy  
298 Analysis and Government Accountability shall report to the  
299 President of the Senate, the Speaker of the House of  
300 Representatives, and the Governor by December 1, 2011.

301 Section 14. Medicaid claims adjudication project.—The  
302 Agency for Health Care Administration shall issue a competitive  
303 procurement pursuant to chapter 287, Florida Statutes, with a



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304 third-party vendor, at no cost to the state, to provide a real-  
305 time, front-end database to augment the Medicaid fiscal agent  
306 program edits and claims adjudication process. The vendor shall  
307 provide an interface with the Medicaid fiscal agent to decrease  
308 inaccurate payment to Medicaid providers and improve the overall  
309 efficiency of the Medicaid claims-processing system.

310 Section 15. All powers, duties, functions, records,  
311 offices, personnel, property, pending issues and existing  
312 contracts, administrative authority, administrative rules, and  
313 unexpended balances of appropriations, allocations, and other  
314 funds relating to public assistance fraud in the Department of  
315 Law Enforcement are transferred by a type two transfer, as  
316 defined in s. 20.06(2), Florida Statutes, to the Division of  
317 Public Assistance Fraud in the Department of Financial Services.

318 Section 16. Except for sections 1, 2, 3, and 13 of this act  
319 and this section, which shall take effect July 1, 2010, sections  
320 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, and 15 shall take effect  
321 January 1, 2011.

322  
323 ===== T I T L E A M E N D M E N T =====

324 And the title is amended as follows:

325 Delete lines 55 - 56

326 and insert:

327 broker or choice counselor provider; creating s.  
328 624.35, F.S.; providing a short title; creating s.  
329 624.351, F.S.; providing legislative intent;  
330 establishing the Medicaid and Public Assistance Fraud  
331 Strike Force within the Department of Financial  
332 Services to coordinate efforts to eliminate Medicaid



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333 and public assistance fraud; providing for membership;  
334 providing for meetings; specifying duties; requiring  
335 an annual report to the Legislature and Governor;  
336 creating s. 624.352, F.S.; directing the Chief  
337 Financial Officer to prepare model interagency  
338 agreements that address Medicaid and public assistance  
339 fraud; specifying which agencies can be a party to  
340 such agreements; amending s. 16.59, F.S.; conforming  
341 provisions to changes made by the act; requiring the  
342 Divisions of Insurance Fraud and Public Assistance  
343 Fraud in the Department of Financial Services to be  
344 collocated with the Medicaid Fraud Control Unit if  
345 possible; requiring positions dedicated to Medicaid  
346 managed care fraud to be collocated with the Division  
347 of Insurance Fraud; amending s. 20.121, F.S.;  
348 establishing the Division of Public Assistance Fraud  
349 within the Department of Financial Services; amending  
350 ss. 411.01, 414.33, and 414.39, F.S.; conforming  
351 provisions to changes made by the act; transferring,  
352 renumbering, and amending s. 943.401, F.S.; directing  
353 the Department of Financial Services rather than the  
354 Department of Law Enforcement to investigate public  
355 assistance fraud; directing the Auditor General and  
356 the Office of Program Policy Analysis and Government  
357 Accountability to review the Medicaid fraud and abuse  
358 processes in the Agency for Health Care  
359 Administration; requiring a report to the Legislature  
360 and Governor by a certain date; establishing the  
361 Medicaid claims adjudication project in the Agency for



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362 Health Care Administration to decrease the incidence  
363 of inaccurate payments and to improve the efficiency  
364 of the Medicaid claims processing system; transferring  
365 activities relating to public assistance fraud from  
366 the Department of Law Enforcement to the Division of  
367 Public Assistance Fraud in the Department of Financial  
368 Services by a type two transfer; providing effective  
369 dates.

370  
371 WHEREAS, Florida's Medicaid program is one of the largest  
372 in the country, serving approximately 2.7 million persons each  
373 month. The program provides health care benefits to families and  
374 individuals below certain income and resource levels. For the  
375 2008-2009 fiscal year, the Legislature appropriated \$18.81  
376 billion to operate the Medicaid program which is funded from  
377 general revenue, trust funds that include federal matching  
378 funds, and other state funds, and

379 WHEREAS, Medicaid fraud in Florida is epidemic, far-  
380 reaching, and costs the state and the Federal Government  
381 billions of dollars annually. Medicaid fraud not only drives up  
382 the cost of health care and reduces the availability of funds to  
383 support needed services, but undermines the long-term solvency  
384 of both health care providers and the state's Medicaid program,  
385 and

386 WHEREAS, the state's public assistance programs serve  
387 approximately 1.8 million Floridians each month by providing  
388 benefits for food, cash assistance for needy families, home  
389 health care for disabled adults, and grants to individuals and  
390 communities affected by natural disasters. For the 2008-2009



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391 fiscal year, the Legislature appropriated \$626 million to  
392 operate public assistance programs, and

393 WHEREAS, public assistance fraud costs taxpayers millions  
394 of dollars annually, which significantly and negatively impacts  
395 the various assistance programs by taking dollars that could be  
396 used to provide services for those people who have a legitimate  
397 need for assistance, and

398 WHEREAS, both Medicaid and public assistance programs are  
399 vulnerable to fraudulent practices that can take many forms. For  
400 Medicaid, these practices range from providers who bill for  
401 services never rendered and who pay kickbacks to other providers  
402 for client referrals, to fraud occurring at the corporate level  
403 of a managed care organization. Fraudulent practices involving  
404 public assistance involve persons not disclosing material facts  
405 when obtaining assistance or not disclosing changes in  
406 circumstances while on public assistance, and

407 WHEREAS, ridding the system of perpetrators who prey on the  
408 state's Medicaid and public assistance programs helps reduce the  
409 state's skyrocketing costs, makes more funds available for  
410 essential services, and improves the quality of care and the  
411 health status of our residents, and

412 WHEREAS, aggressive and comprehensive measures are needed  
413 at the state level to investigate and prosecute Medicaid and  
414 public assistance fraud and to recover dollars stolen from these  
415 programs, and

416 WHEREAS, new statewide initiatives and coordinated efforts  
417 are necessary to focus resources in order to aid law enforcement  
418 and investigative agencies in detecting and deterring this type  
419 of fraudulent activity, NOW, THEREFORE,