

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2214**

**FISCAL  
NOTE**

By Delegate Steele

[Introduced February 12, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §9-7-6 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new article, designated §14-4-1, §14-4-2, §14-4-3,  
3 §14-4-4, §14-4-5, §14-4-6, §14-4-7, §14-4-8, §14-4-9, §14-4-10, §14-4-11, and §14-4-12;  
4 relating to creating the False Claims Act; amending the fraud and abuse provisions in  
5 Medicaid program to provide for damages under the False Claims Act; setting forth  
6 prohibited acts, damages, costs, and civil penalties, limitations on damages, and  
7 responsibilities of the Attorney General; providing for civil actions by private persons, rights  
8 of parties to qui tam proceedings, awards to qui tam plaintiffs, the barring of certain civil  
9 actions; providing that state is not liable for the expenses of private litigants; providing for  
10 private action for retaliatory conduct, limitation of actions, retroactive application, and state  
11 intervention in action by private person; addressing estoppel, jurisdiction and venue,  
12 nonexclusivity of act, liberality of construction, and distribution of proceeds.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 7. FRAUD AND ABUSE IN THE MEDICAID PROGRAM.**

#### **§9-7-6. Civil remedies; statute of limitations.**

1 (a) Any person, firm, corporation, or other entity which makes or attempts to make, or  
2 causes to be made, a claim for benefits, payments, or allowances under the medical programs of  
3 the department, when the person, firm, corporation, or entity knows, or reasonably should have  
4 known, such claim to be false, fictitious, or fraudulent, or, in a greater amount than that to which he  
5 or she or it is entitled, or who undertakes any act falling under §14-4-2, or who fails to maintain  
6 such records as are necessary shall be liable to the department in an amount equal to three times  
7 the amount of such benefits, payments, or allowances to which he or she or it is not entitled, and  
8 ~~shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation~~  
9 and for civil penalties of:

10           (1) Payment of interest on the amount of the excess benefits or payments at the maximum  
11 legal rate in effect on the date the payment was made to said person, firm, corporation, partnership  
12 or other legal entity for the period from the date upon which payment was made to the date upon  
13 which repayment is made to the state.

14           (2) Payment of an amount not to exceed three times the amount of such excess benefits or  
15 payments.

16           (3) Payment in the sum of not less than and not more than the civil penalty allowed under  
17 §14-4-2, as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation  
18 Adjustment Act of 1990, Pub.L.101 410 for each excessive claim for assistance, benefits or  
19 payments, and

20           (4) Shall be liable for the payment of reasonable attorney fees and all other fees and costs  
21 of litigation.

22           (b) No criminal action or indictment need be brought against any person, firm, corporation,  
23 or other entity as a condition for establishing civil liability hereunder.

24           (c) A civil action under this section may be prosecuted and maintained on behalf of the  
25 department by the Attorney General, the Attorney General's assistants, or by any attorney in  
26 contract with or employed with the Office of the Attorney General to provide such representation. If  
27 the Attorney General declines to do so, the civil action shall be maintained either by a prosecuting  
28 attorney and the prosecuting attorney's assistants or by any attorney in contract with or employed  
29 by the department to provide such representation.

30           (d) Any civil action brought under this section shall be brought within five years from the  
31 time the false, fraudulent, or fictitious claim was made. Claims will be judged based on the  
32 Medicaid or program rules in existence at the time of the claim submission.

## **CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.**

### **ARTICLE 4. FALSE CLAIMS ACT.**

**§14-4-1. Definitions.**

1       For purposes of this article:

2       "Claim" includes any request or demand, whether under a contract or otherwise, for money  
3 or property, whether the state has title to the money or property that:

4       (A) Is presented to an officer, employee, or agent of the state; or

5       (B) Is made to a contractor, grantee, or other recipient of the money or property, if the  
6 money or property is to be spent or used on the state's behalf or to advance a state program or  
7 interest, and if the state:

8       (i) Provides or has provided any portion of the money or property requested or demanded;

9 or

10       (ii) Will reimburse the contractor, grantee, or other recipient for any portion of the money or  
11 property that is requested or demanded.

12       (C) Exceeds in value the sum of \$25,000 at the time the claim is presented; *Provided, That,*  
13 this limit does not apply to claims brought for fraud and abuse in the Medicaid program.

14       (D) "Claim" does not include a request or demand for money or property that the state has  
15 paid to an individual as compensation for state employment or as an income subsidy with no  
16 restrictions on that individual's use of the money or property.

17       "Employer" includes any natural person, corporation, firm, association, organization,  
18 partnership, business, trust or state-affiliated entity involved in proprietary function, including state  
19 universities and state hospitals.

20       "Knowingly" or "knowing" means that a person has actual knowledge of the information.  
21 Innocent mistake shall be a defense to an action under this act; *Provided, that for claims brought*  
22 for fraud and abuse in the Medicaid program, and that for all such claims "knowingly" or "knowing"  
23 means that a person, with respect to information:

24       (A) Has actual knowledge of the information;

25       (B) Acts in deliberate ignorance of the truth or falsity of the information; or

(C) Acts in reckless disregard of the truth or falsity of the information; and

(D) "Knowingly" and "knowing" require no specific intent to defraud.

"Material" or "materially" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

"Obligation" means an established duty, whether fixed, arising from an express or implied contractual, grantor grantee or licensor licensee relationship, from a fee based or similar relationship, from statute or rule or from the retention of any overpayment.

"Person" means any natural person, partnership, corporation, organization, association, business, trust or other legal entity, including any political subdivision of the state.

**§14-4-2. Acts subjecting person to treble damages, costs and civil penalties; exceptions.**

(a) Any person who commits any of the following acts is liable to the state for three times the amount of damages which the state sustains because of the act of that person. A person who commits any of the following acts is also liable to the state for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the state for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. § 3729 *et. seq.*), as may be adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461; Public Law 104 410), for each violation:

(1) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

(2) Knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(3) Has possession, custody, or control of money or property used or to be used by the state and knowingly delivers or causes to be delivered less than all of that money or property;

(4) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt without

17 completely knowing that the information on the receipt is true;

18 (5) Knowingly buys, or receives as a pledge of an obligation or debt, public property from  
19 an officer, employee or agent of the state who is not lawfully authorized to sell or pledge the  
20 property;

21 (6) Knowingly makes, uses or causes to be made or used, a false record or statement  
22 material to an obligation to pay or transmit money or property to the state;

23 (7) Knowingly conceals, or knowingly and improperly avoids or decreases, an obligation to  
24 pay or transmit money or property to the state;

25 (8) Conspires to violate any provision of this section.

26 (b) This section does not apply to claims, records or statements made under the state tax  
27 laws contained in Chapter 11 of this code.

28 (c) *Damages Limitation.* Notwithstanding §14-4-2(a), a person who violates any of the  
29 provisions of §14-4-2(a) (1) through (8) is liable to the state for not less than two times the amount  
30 of damages that the state sustains because of the violation and the costs of a civil action brought to  
31 recover the damages, but no civil penalties, if the court finds all of the following:

32 (1) The person committing the violation provided officials of the state who are responsible  
33 for investigating false claims violations with all information known to that person about the violation  
34 within 30 days after the date on which the person first obtained the information;

35 (2) The person fully cooperated with any state investigation of the violation; and

36 (3) At the time the person provided the state with information about the violation, a criminal  
37 prosecution, civil action or administrative proceeding had not commenced with respect to the  
38 violation, and the person did not have actual knowledge of the existence of an investigation into  
39 the violation.

**§14-4-3. Attorney General investigations and prosecutions; prosecutorial authority.**

1 The Attorney General shall diligently investigate a violation under §14-4-2(a). If the  
2 Attorney General finds that a person has violated or is violating §14-4-2(a), the Attorney General

3 may bring a civil action under this section against that person.

**§14-4-4. Civil actions by individuals as qui tam plaintiff and as private citizens.**

1 (a) A person may bring a civil action for a violation of this article for the person and for the  
2 state in the name of the state. The person bringing the action shall be referred to as the *qui tam*  
3 plaintiff. Once filed, the action may be dismissed only with the written consent of the court and the  
4 Attorney General, considering the best interest of the parties involved and the public purposes  
5 behind this article.

6 (b) A copy of the complaint and written disclosure of substantially all material evidence and  
7 information the person possesses shall be served on the Attorney General. The complaint shall  
8 also be filed in camera, shall remain under seal for at least 60 days and may not be served on the  
9 defendant until the court so orders. The state may elect to intervene and proceed with the action  
10 within 60 days after it receives both the complaint and the material evidence and the information.  
11 Any information or documents furnished by the relator to the Attorney General in connection with  
12 the initiation of a qui tam action or investigation under this subdivision is not a public record and is  
13 exempt from disclosure under chapter twenty-nine-b of this code.

14 (c) The state may, for good cause shown, move the court for extensions of the time during  
15 which the complaint remains under seal under §14-4-4(b). Any such motions may be supported by  
16 affidavits or other submissions in camera. The defendant may not be required to respond to any  
17 complaint filed under this section until after the complaint is unsealed and served upon the  
18 defendant pursuant to West Virginia Rules of Civil Procedure.

19 (d) Before the expiration of the 60-day period or any extensions obtained under §14-4-4(c),  
20 the Attorney General shall review the action and shall issue findings that:

21 (1) The cause has a reasonable basis in fact and that the Attorney General's office shall  
22 proceed with the action, in which case the Attorney General shall intervene and conduct the action  
23 on behalf of the state;

24 (2) The cause has a reasonable basis in fact but the Attorney General's office declines to

25 proceed with the action, in which case the Attorney General shall notify the court that it declines to  
26 take over the action, in which case the person bringing the action shall have the right to conduct  
27 the action; or

28 (3) In any claims other than those for claims brought for fraud and abuse in the Medicaid  
29 program, if the cause does not have a reasonable basis in fact, it may not proceed: *Provided*, That  
30 any finding by the Attorney General that the cause is not meritorious is subject to an *en banc*  
31 review by the West Virginia Intermediate Court of Appeals, which may approve or reverse that  
32 finding. If the person bringing the civil action elects to seek review of the finding, he or she shall file  
33 his request upon forms provided by the court for that purpose within 60 days after receipt of the  
34 finding and deliver a copy of the form to the Attorney General. Within 60 days after receipt of a  
35 copy of the form, the Attorney General shall deliver to the Intermediate Court of Appeals copies of  
36 the complaint and all evidence and information provided by the person bringing the civil action  
37 together with copies of all evidence developed by the Attorney General during his investigation. If,  
38 upon review, the West Virginia Intermediate Court of Appeals finds that the cause has a  
39 reasonable basis in fact, then the cause may proceed under §14-4-5(d)(2).

40 (e) When a person brings a valid action under this section, no person other than the state  
41 may intervene or bring a related action based on the facts underlying the pending action.

42 (f) In any action brought under the provisions of this section, the Attorney General, or any  
43 other person bringing the action, shall prove all essential elements of the cause of action, including  
44 damages, by a preponderance of the evidence.

**§14-4-5. Rights of the parties to qui tam actions.**

1 (a) If the Attorney General proceeds with the action, he or she has the primary  
2 responsibility for prosecuting the action, and may not be bound by an act of the person bringing the  
3 action. That person may continue as a party to the action, subject to the limitations set forth in §14-  
4 4-5(b).

5 (b)(1) The Attorney General may seek to dismiss the action for good cause



6 notwithstanding the objections of the *qui tam* plaintiff if the qui tam plaintiff has been notified by the  
7 Attorney General of the filing of the motion and the court has provided the qui tam plaintiff with an  
8 opportunity to oppose the motion and present evidence at a hearing.

9 (A) Upon a hearing on the Attorney General's motion to dismiss the action, the court shall  
10 consider, and is authorized to grant, a proposal by the qui tam plaintiff to proceed with the action  
11 without the Attorney General's participation.

12 (B) Any award resulting from an action authorized by the court pursuant to §14-4-5(b)(1)(A)  
13 shall be made pursuant to §14-4-6.

14 (2) The Attorney General may settle the action with the defendant notwithstanding the  
15 objections of the qui tam plaintiff if the court determines, after a hearing providing the qui tam  
16 plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate, and  
17 reasonable under all of the circumstances.

18 (3) Upon a showing by the Attorney General that unrestricted participation during the  
19 course of the litigation by the person initiating the action would interfere with or unduly delay the  
20 Attorney General's prosecution of the case or would be repetitious, irrelevant or for purposes of  
21 harassment, the court may impose limitations on the person's participation, such as:

22 (A) Limiting the number of witnesses the person may call;

23 (B) Limiting the length of the testimony of such witnesses;

24 (C) Limiting the person's cross-examination of witnesses; or

25 (D) Otherwise limiting the participation by the person in the litigation.

26 (4) Upon a showing by the defendant that unrestricted participation during the course of the  
27 litigation by the person initiating the action would be for purposes of harassment or would cause  
28 the defendant undue burden or unnecessary expense, the court may limit the participation by the  
29 person in the litigation.

30 (c) If the Attorney General elects not to proceed with the action, the person who initiated  
31 the action may conduct the action. If the Attorney General 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 Attorney General to intervene at a later date upon a showing of good cause.

(d) Whether or not the Attorney General 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 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.

(e) Notwithstanding the provisions of §14-4-4, 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 alternate remedy is pursued in another proceeding, the person initiating the action has the same rights in that proceeding as the person would have had if the action had continued under §14-4-4. 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 §14-4-4. A finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state, if all time for filing an appeal with respect to the finding or conclusion has expired or if the finding or conclusion is not subject to judicial review.

**§14-4-6. Award to qui tam plaintiff.**

(a) (1) In any claims brought for fraud and abuse in the Medicaid program, if the Attorney General proceeds with an action brought by a person under §14-4-4, that person shall receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution

5 of the action. Where the action is one that the court finds to be based primarily on disclosures of  
6 specific information, other than information provided by the person bringing the action, relating to  
7 allegations or transactions in a criminal, civil, or administrative hearing, in a legislative,  
8 administrative, or state auditor's report, hearing, audit, or investigation, or from the news media,  
9 the court may award such sums as it considers appropriate, but in no case more than 10 percent of  
10 the proceeds, taking into account the significance of the information and the role of the person  
11 bringing the action in advancing the case to litigation. Any such person shall also receive an  
12 amount for reasonable expenses which the court finds to have been necessarily incurred, plus  
13 reasonable attorneys' fees and costs prior to the attorney general's intervention. All expenses,  
14 fees, and costs shall be awarded against the defendant.

15 (2) In any claims other than those for claims brought for fraud and abuse in the Medicaid  
16 program, if the Attorney General proceeds with an action brought by a person under §14-4-4, that  
17 person shall receive not more than 20 percent of the proceeds of the action or settlement of the  
18 claim, or \$250,000 whichever is lesser, depending upon the extent to which the person  
19 substantially contributed to the prosecution of the action. Where the action is one that the court  
20 finds to be based primarily on disclosures of specific information, other than information provided  
21 by the person bringing the action, relating to allegations or transactions in a criminal, civil, or  
22 administrative hearing, in a legislative, administrative, or state auditor's report, hearing, audit, or  
23 investigation, or from the news media, the court may award such sums as it considers appropriate,  
24 but in no case more than 10 percent of the proceeds, taking into account the significance of the  
25 information and the role of the person bringing the action in advancing the case to litigation. Any  
26 payment to a person shall be made from the proceeds. Any such person shall also receive an  
27 amount for reasonable expenses which the court finds to have been necessarily incurred, plus  
28 reasonable attorneys' fees and costs prior to the Attorney General's intervention. All expenses,  
29 fees, and costs shall be awarded against the defendant.

30 (b)(1) If the Attorney General does not proceed with an action under §14-4-4, in any claims

31 brought for fraud and abuse in the Medicaid program, the person bringing the action or settling the  
32 claim shall receive an amount which the court decides is reasonable for collecting the civil penalty  
33 and damages. The amount shall be not less than 25 percent and not more than 30 percent of the  
34 proceeds of the action or settlement and shall be paid out of the proceeds. The person shall also  
35 receive an amount for reasonable expenses which the court finds to have been necessarily  
36 incurred. All expenses, fees, and costs shall be awarded against the defendant.

37 (2) If the Attorney General does not proceed with an action under §14-4-4, the person  
38 bringing the action or settling the claim shall receive an amount which the court decides is  
39 reasonable for collecting the civil penalty and damages. The amount may not exceed more than  
40 30 percent of the proceeds of the action or settlement and shall be paid out of the proceeds; nor, in  
41 any circumstance, shall the award exceed \$1,000,000 absent a specific finding by the judge that  
42 such award is necessary and proper based upon specific factual circumstances unique to the  
43 action. The person shall also receive an amount for reasonable expenses which the court finds to  
44 have been necessarily incurred, which, at the court's discretion may include reasonable attorneys'  
45 fees and costs up to an amount not to exceed 50 percent of the plaintiff's recovery. All expenses,  
46 fees, and costs are the contractual obligation of the person bringing the action and are not the  
47 responsibility of the state; *Provided*, the court shall award to the defendant its reasonable  
48 attorney's fees and expenses against the person bringing the civil action if the defendant prevails  
49 in the civil action and the court finds that the claim of the person bringing the civil action was clearly  
50 frivolous, clearly vexatious, or brought primarily for purposes of harassment.

51 (c) Whether or not the Attorney General proceeds with the action, if the court finds that the  
52 action was brought by a person who planned and initiated the violation of §14-4-2 upon which the  
53 action was brought, then the court may, to the extent the court considers appropriate, reduce the  
54 share of the proceeds of the action which the person would otherwise receive under §14-4-6(a) or  
55 §14-4-6(b), taking into account the role of that person in advancing the case to litigation and any  
56 relevant circumstances pertaining to the violation. If the person bringing the action is convicted of

57 criminal conduct arising from his or her role in the violation of §14-4-2, that person shall be  
58 dismissed from the civil action and may not receive any share of the proceeds of the action. The  
59 dismissal does not prejudice the right of the state to continue the action.

60 (d) Following any distributions under sections §14-4-6(a), §14-4-6(b), or §14-4-6(c) the  
61 agency injured by the submission of a false claim shall be awarded an amount not to exceed its  
62 compensatory damages. All remaining proceeds, including civil penalties awarded under this  
63 article, shall be deposited in accordance with §14-4-12.

**§14-4-7. Certain actions barred.**

1 (a) Except in any claim brought for fraud and abuse in the Medicaid program, a court does  
2 not have jurisdiction over an action brought under §14-4-4, based on information discovered by a  
3 present or former employee of the state during the course of his employment unless that  
4 employee, first, in good faith, exhausted existing internal procedures for reporting and seeking  
5 recovery of the falsely claimed sums through official channels and unless the state failed to act on  
6 the information provided within a reasonable period of time.

7 (b) A court does not have jurisdiction over an action brought under §14-4-4, against any  
8 department, authority, board, bureau, commission, or agency of the state, any political subdivision  
9 of the state, a member of the Legislature, a member of the judiciary, or an exempt official if the  
10 action is based on evidence or information known to the state when the action was brought. For  
11 purposes of this section, "exempt official" means the Governor, Attorney General, and the  
12 directors or members of any department, authority, board, bureau, commission, or agency of the  
13 state or any political subdivision of the state.

14 (c) A court does not have jurisdiction over an action brought under §14-4-4 by an inmate  
15 incarcerated within a state or local correctional facility as defined in this code.

16 (d) A person may not bring an action under §14-4-4 which is based upon allegations or  
17 transactions which are the subject of a civil suit or an administrative civil money penalty  
18 proceeding in which the state is already a party.

(e) (1) The court shall dismiss an action or claim under this article, unless opposed by the state, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(A) In a criminal, civil or administrative hearing in which the state or its agent is a party;

(B) In a West Virginia legislative or other state report, hearing, audit or investigation; or

(C) 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.

(2) For purposes of this section, "original source" means an individual who either:

(A) Prior to a public disclosure, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based, or

(B) Who 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 article.

**§14-4-8. State not liable for certain expenses.**

The state is not liable for expenses which a person incurs in bringing an action under this article.

**§14-4-9. Private action for retaliatory actions.**

(a) Any employee, contractor, or agent who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by the employer of the employee, contractor or agent because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action brought or to be brought under §14-4-3 or §14-4-4, or other efforts to stop one or more violations of this article, including investigation for, initiation of, testimony for, or assistance in the action, is entitled to all relief necessary to make the employee, contractor, or agent whole. The relief shall include reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two 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 attorney's fees.

(b) An employee, contractor or agent may bring an action in the appropriate court for the relief provided under this section. The action may not be brought under this section more than three years after the last act of the employer that is alleged to violate this section.

(c) Any state employee who has suffered as a result of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action brought or to be brought under §14-4-3 or §14-4-4, or other efforts to stop one or more violations of this article may pursue a grievance under the West Virginia Public Employees Grievance Procedure, or through a local grievance process, if applicable: *Provided, That, any relief awarded to an employee under this section shall be reduced by any amount awarded to the employee through a state or local grievance process.*

(d) Nothing in this article may disparage impair or limit any other right or legal action of an employee, contractor, or agent.

**§14-4-10. Limitation of actions; activities antedating this article; burden of proof.**

(a) A civil action under §14-4-2 or §14-4-3, may not be brought:

(1) More than six years after the date on which the violation of §14-4-2 is committed, or

(2) More than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the state charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(b) If the state elects to intervene and proceed with an action brought under §14-4-4, the state may file its own complaint or amend the complaint of a person who has brought an action under §14-4-4 to clarify or add detail to the claims in which the state is intervening and to add any additional claims with respect to which the state contends it is entitled to relief. For statute of limitations purposes, any such state pleading shall relate back to the filing date of the complaint of

the person who originally brought the action, to the extent that the claim of the state arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

(c) *Estoppel.* Notwithstanding any other provision of law, a guilty verdict rendered in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under §14-4-3 or §14-4-4.

(d) An action under §14-4-3 or §14-4-4 may be brought in a circuit court of any county in which the defendant or any one of multiple defendants can be found, resides, or transacts business, or in any county in which any act prohibited by §14-4-2 occurred. The Attorney General or the person who brought the action shall prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(e) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this article may be served at any place in the state.

#### **§14-4-11. Remedies under other laws; liberality of construction.**

(a) The provisions of this article are not exclusive, and the remedies provided for in this article shall be in addition to any other remedies provided in any other law or available under common law.

(b) This article shall be liberally construed and applied to promote the public interest.

#### **§14-4-12. Proceeds; how distributed.**

Following the satisfaction of the provisions of §14-4-6(d), for the fiscal year beginning July 1, 2025, all proceeds the state shall receive from successful actions brought under the provisions of this article shall be deposited as follows:

(1) Ten percent into the account of the Office of the Attorney General for operation of the Consumer Protection Division of that Office;



6           (2) Ten percent into the account of the Office of the Attorney General for operations in that  
7   office to carry out the mandates of this article;

8           (3) Ten percent into the Education Improvement Fund for appropriation by the Legislature  
9   to the PROMISE Scholarship Fund created in §18C-7-7;

10          (4) Ten percent into the account of the School Building Authority School Construction Fund  
11   created pursuant to §18-9D-6;

12          (5) Ten percent into the Feed to Achieve initiative nonprofit foundation of the State Board of  
13   Education created pursuant to §18-5D-4, to be spent in accordance with the provisions of said  
14   article;

15          (6) Ten percent into the State Road Fund in the State Treasury and expended by the  
16   Commissioner of Highways for design, maintenance, and construction of roads in the state  
17   highway system;

18          (7) Ten percent into a fund to enable the Bureau of Senior Services to carry out programs  
19   pursuant to §16-5P-9;

20          (8) Ten percent into a fund to be established to enable the Department of Human Services  
21   to build substance abuse centers;

22          (9) Ten percent into the Teachers' Retirement System created pursuant to §18-1-7a;

23          (10) Five percent into a fund to be established to provide mental health services to  
24   veterans under the direction of the Department of Veteran's Affairs; and

25          (11) Five percent into a fund to be established to provide mental health services to first  
26   responders under the direction of the Department of Homeland Security.

NOTE: The purpose of this bill relates to creating the False Claims Act. The bill amends the fraud and abuse provisions in Medicaid program to provide for damages under the False Claims Act; sets forth prohibited acts, damages, costs and civil penalties, limitations on damages, and responsibilities of the Attorney General; provides for civil actions by private persons, rights of parties to qui tam proceedings, awards to qui tam plaintiffs, the barring of certain civil actions; provides that state is not liable for the expenses of private litigants; provides for private action for retaliatory conduct, limitation of actions, retroactive application, and state intervention in action by private person; addresses estoppel,

jurisdiction and venue, nonexclusivity of act, liberality of construction, and distribution of proceeds.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.