As Introduced

136th General Assembly
Regular Session
2025-2026

S. B. No. 72

Senators Hicks-Hudson, DeMora
Cosponsors: Senators Weinstein, Smith, Craig

A BILL

To enact sections 2749.01, 2749.02, 2749.03, 2749.04, 2749.05, 2749.06, 2749.07, 2749.08, 2749.09, and 2749.10 of the Revised Code regarding filing false or fraudulent claims with the state and defrauding the state of money or property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2749.01, 2749.02, 2749.03, 2749.04, 2749.05, 2749.06, 2749.07, 2749.08, 2749.09, and 2749.10 of the Revised Code be enacted to read as follows:

Sec. 2749.01. As used in this chapter:

(A) "Claim" includes any request or demand, whether under a contract or otherwise, for money or property that is made to a contractor, grantee, or other recipient if the state provides any portion of the money or property that is requested or demanded or if the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(B) "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 the data compilations, and any product of discovery.

(C) "Knowing" and "knowingly" mean that a person, with respect to information and with or without a specific intent to defraud, meets at least one of the following criteria:

(1) The person has actual knowledge of the information.

(2) The person acts in deliberate ignorance of the truth or falsity of the information.

(3) The person acts in reckless disregard of the truth or falsity of the information.

(D) "Product of discovery" includes all of the following:

(1) The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, that 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 division (D)(1) of this section;

(3) Any index or other manner of access to any item listed in division (D)(1) of this section.

Sec. 2749.02. (A) No person shall do any of the following:

(1) Knowingly present, or cause to be presented, to an

officer or employee of the state or to the state a false or misleading claim for payment or approval;

(2) Knowingly make, use, or cause to be made or used a false record or statement to get the state to pay or approve a false or misleading claim;

(3) Conspire to defraud the state by getting a false or fraudulent claim allowed or paid;

(4) Have possession, custody, or control of property or money used or to be used by the state and, with intent to conceal the property or money, deliver or cause to be delivered less property or money than the amount for which the person receives a certificate or receipt;

(5) With intent to defraud, make or deliver a document that certifies receipt of property used by the state or to be used by the state and that the person is authorized to make or deliver if the person does not know that the information on the document is true;

(6) Knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the state who lawfully may not sell or pledge the property;

(7) Knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state;

(8) Knowingly solicit, receive, offer to pay, or pay a kickback, bribe, rebate, or any other form of remuneration, directly or indirectly, overtly or covertly, in cash or in kind, for referring an individual to a health care provider or managed care organization or to a third person for the purpose of referral of the individual by the third person to a health care

provider or managed care organization for furnishing the individual with goods or services that may be paid for, in whole or in part, by the medicaid program or by the bureau of workers' compensation under Chapters 4121. or 4123. of the Revised Code and rules adopted pursuant to those chapters.

(B)(1) Except as provided in division (B)(2) of this section, whoever violates division (A) of this section is liable to the state for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each false or misleading claim, plus three times the amount of damages that the state sustains because of the violation.

(2) Whoever violates division (A) of this section is liable to the state for a civil penalty of not less than two times the amount of damages that the state sustains because of the violation, plus the costs of a civil action brought to recover any such penalty or damages, if the court finds all of the following:

(a) The person committing the violation furnished the attorney general with all information known to the person about the violation within thirty days after the date on which the person first obtained the information.

(b) The person fully cooperated with any state investigation of the violation.

(c) At the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had been commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(C) Any information furnished as described in division (B)(2)(a), (b), or (c) of this section is not a public record under and is exempt from disclosure under section 149.43 of the Revised Code.

(D) Commencement of an action or investigation under this chapter does not preclude either of the following:

(1) Commencement of an action under section 5164.35 of the Revised Code with regard to claims, payments, reports, or documents to which section 5164.35 of the Revised Code applies;

(2) Commencement of any other action otherwise authorized by law.

Sec. 2749.03. (A) The attorney general diligently shall investigate violations of section 2749.02 of the Revised Code. If the attorney general finds that a person has violated or is violating that section, the attorney general may bring a civil action under this section against the person.

(B)(1) A person may bring a civil action for a violation of section 2749.02 of the Revised Code on behalf of the person and on behalf of the state. A person may not bring an action under this division against the state or a political subdivision, any department, board, office, commission, agency, institution, or other instrumentality of the state or a political subdivision, or any officer or employee of the state or a political subdivision. A person shall bring the action in the name of the state.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the attorney general pursuant to Civil Rule 4.2(J). The complaint shall be filed in camera, shall

remain under seal for at least sixty 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 sixty days after it receives both the complaint and the material evidence and information.

(3) The state, for good cause shown, may file motions with the court requesting extensions of the time during which the complaint remains under seal, and the state may intervene under division (B)(2) of this section. The motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed under this section until twenty-eight days after the complaint is unsealed and served on the defendant pursuant to Civil Rule 4.

(4) Before the expiration of the sixty-day period under division (B)(2) of this section or any extensions obtained under division (B)(3) of this section, the state shall either proceed with the action or notify the court that it declines to proceed with the action. If the state proceeds with the action, the state shall conduct the action. If the state declines to proceed with the action, the person bringing the action has the right to conduct the action.

(5) When a person brings an action under division (B)(1) of this section, no person other than the state may intervene or bring a related action based on the facts underlying that pending action.

(C)(1) If the state proceeds with an action under division (B) of this section, it has the primary responsibility for prosecuting the action and is not bound by an action of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to the

limitations set forth in divisions (C)(2) to (4) of this section.

(2) The state may dismiss an action brought under division (B) of this section notwithstanding the objections of the person initiating the action if the state notifies the person of the filing of the motion to dismiss and the court has provided the person with an opportunity for a hearing on the motion.

(3) The state may settle an action brought under division (B) of this section 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. On a showing of good cause, the court may hold the hearing in camera.

(4) On 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, in its discretion, may impose limitations on the person's participation, including all of the following:

(a) Limiting the number of witnesses the person may call;

(b) Limiting the length of the testimony of witnesses;

(c) Limiting the person's cross-examination of witnesses;

(d) Otherwise limiting the participation by the person in the litigation.

(5) On a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating an action under division (B) of this section would be

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

(D) If the state elects not to proceed with an action brought by a person under division (B) of this section, the person has 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 the 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 on a showing of good cause.

(E) Whether or not the state proceeds with the action, on a showing by the state that certain 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 that discovery for a period of not more than sixty days. The showing shall be conducted in camera. The court may extend the sixty-day period on 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.

(F) The state may elect to pursue its claim through any available means other than an action brought under division (B) of this section, including an administrative proceeding to determine a civil monetary penalty. If an 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 this section. Any finding of fact or conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under this section. A finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if the 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.

(G)(1) Except as provided in division (G)(1) of this section, if the state proceeds with an action brought by a person under division (B) of this section, the person shall receive at least fifteen per cent but not more than twenty-five per cent of the proceeds of the action or settlement of the claim, depending on the extent to which the person substantially contributed to the prosecution of the action. If the action is one that 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 or civil hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award the sums that it considers appropriate, but in no case more than ten per cent 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 division (G)(1) of this section shall be made from the proceeds. The person also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All expenses, fees, and costs shall be awarded against the defendant.

(2) If the state does not proceed with an action brought by a person under division (B) of this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five per cent and not more than thirty per cent of the proceeds of the action or settlement and shall be paid out of the proceeds. The remainder of the proceeds shall be paid to the state. The person also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All expenses, fees, and costs shall be awarded against the defendant.

(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 2749.02 of the Revised Code on which the action was brought, then the court may, to the extent the court considers appropriate, eliminate or reduce the share of the proceeds of the action that the person would otherwise receive under division (G)(1) or (2) of this section, 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 the person's role in the violation of section 2749.02 the Revised Code, the civil action shall be dismissed. The dismissal does not prejudice the right of the state to continue the action.

(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 attorney's 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.

(H)(1) In no event may a person bring an action under division (B) of this section that is based on allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party.

(2) In no event may a person bring an action under this section based on the public disclosure of allegations or transactions in a criminal, civil, legislative, or administrative hearing, report, audit, or investigation, or from the news media, unless the person bringing the action has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action based on the information under this section. This division does not apply to the bringing of an action by the state.

(I) The state is not liable for expenses that a person incurs in bringing an action under this section.

(J) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, is entitled to all relief necessary to make the employee whole. The relief includes reinstatement with the same seniority status the employee 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. An employee may bring an action in the appropriate court of common pleas for the relief provided in this division.

Sec. 2749.04. (A) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 2749.03 of the Revised Code may be served pursuant to Civil Rule 45.

(B) A civil action under section 2749.03 of the Revised Code may not be brought after the later of the date that is six years after the date on which the violation of section 2749.02 of the Revised Code is committed or three years after the date when facts material to the right of action are known or reasonably should have been known by the attorney general.

(C) In any action brought under section 2749.03 of the Revised Code, the state or, if the state elects to not proceed with the action, the person bringing the action, shall prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(D) A final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether on a verdict after trial or on a plea of guilty or nolo contendere, estops the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and that is brought under division (A) or (B) of section 2749.03 of the Revised Code.

Sec. 2749.05. (A) Except as provided in division (B) of this section, an action under section 2749.03 of the Revised

Code may be brought in the court of common pleas of Franklin county or of any county in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, or transacts business, or in which any act prohibited by section 2749.02 of the Revised Code occurred.

(B) A civil action under section 2749.03 of the Revised Code against an officer or employee of the state is subject to section 9.86 of the Revised Code and division (F) of section 2743.02 of the Revised Code.

Sec. 2749.06. (A) Whenever the attorney general has reason to believe that a person may be in possession, custody, or control of any documentary material or information relevant to an investigation conducted under section 2749.03 of the Revised Code, the attorney general may, before commencing a civil proceeding under that section, issue in writing and cause to be served on the person a civil investigative demand requiring the person to do any of the following:

(1) Produce the documentary material for inspection and copying in accordance with section 2749.07 of the Revised Code;

(2) Answer in writing written interrogatories with respect to the documentary material or information in accordance with section 2749.08 of the Revised Code;

(3) Give oral testimony concerning the documentary material or information in accordance with section 2749.09 of the Revised Code;

(4) Furnish any combination of the material, answers, or testimony.

(B) Each civil investigative demand issued under this section shall state the nature of the conduct constituting the

alleged violation of section 2749.02 of the Revised Code that is under investigation.

(C) A civil investigative demand 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 the material, answers, or testimony would be protected from disclosure under either of the following:

(1) The standards applicable to subpoenas or subpoenas duces tecum issued by a court to aid in a grand jury investigation;

(2) The standards applicable to discovery requests under the Rules of Civil Procedure, to the extent that the application of the standards to the demand is appropriate and consistent with the provisions and purposes of this section.

(D) Whenever any person fails to comply with any civil investigative demand issued under this section, or whenever satisfactory copying or reproduction of any material requested in the demand cannot be done and the person refuses to surrender the material, the attorney general may file in the court of common pleas in Franklin county or in the county in which the person resides, is found, or transacts business, and serve upon the person, a petition for an order of the court for the enforcement of the civil investigative demand.

(E) Any civil investigative demand issued under division (A) of this section or petition filed under division (D) of this section may be served in the same manner as a summons under Civil Rules 4 to 4.3 and 4.5. A verified return by the individual serving a civil investigative demand or petition setting forth the manner of the service is proof of the service.

In the case of service by registered or certified mail, the return shall be accompanied by the return post office receipt of delivery of the demand.

Sec. 2749.07. (A) If the attorney general demands the production of documentary material under section 2749.06 of the Revised Code, the attorney general shall do both of the following:

(1) Describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified;

(2) Prescribe a return date for each class of documentary material that will provide a reasonable period of time within which the material may be assembled and made available for inspection and copying.

(B) The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in any form that the demand designates, by the following methods:

(1) In the case of a natural person, the person to whom the demand is directed;

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

(C) 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 demand is directed has been produced and made available to the attorney general.

(D) Any person on whom any civil investigative demand for the production of documentary material has been served shall make the material available for inspection and copying to the attorney general at the principal place of business of the person or at any other place that the attorney general and the person after service of the demand may agree and prescribe in writing. The person shall make the material available on the return date specified in the demand, or on any later date that the attorney general may prescribe in writing. The person may, on written agreement between the person and the attorney general, substitute copies for originals of all or any part of the material.

Sec. 2749.08. (A) If the attorney general demands answers to written interrogatories under section 2749.06 of the Revised Code, the attorney general shall do both of the following:

(1) Set forth with specificity the written interrogatories to be answered;

(2) Prescribe dates at which time answers to the written interrogatories must be submitted.

(B) Each interrogatory in a civil investigative demand shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in the form that the demand designates, by the following persons:

(1) In the case of a natural person, the person to whom the demand is directed;

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

(C) 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 demand 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.

Sec. 2749.09. (A) If the attorney general demands the giving of oral testimony under section 2749.06 of the Revised Code, the attorney general shall do all of the following:

(1) Prescribe a date, time, and place at which oral testimony will commence;

(2) Specify that the attendance and testimony are necessary to the conduct of the investigation;

(3) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative;

(4) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, that will be taken pursuant to the demand.

(B) The date prescribed for the commencement of oral testimony shall be a date that is not less than seven days after the date on which the demand is received, unless the attorney general determines that exceptional circumstances are present that warrant the commencement of the testimony within a lesser period of time.

(C) The attorney general shall not issue more than one civil investigative demand for oral testimony by the same person

unless the person requests otherwise or unless the attorney general, after investigation, notifies the person in writing that an additional demand for oral testimony is necessary.

(D) The examination of any person pursuant to a civil investigative demand for oral testimony shall be taken before an officer authorized by law to administer oaths and affirmations. 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 or otherwise recorded in accordance with the Rules of Civil Procedure and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the attorney general. This section does not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Rules of Civil Procedure.

(E) The attorney general 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, any person who may be agreed on by the attorney general and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer or other person recording the testimony.

The oral testimony of any person shall be taken in Franklin county or in the county within which the person resides, is found, or transacts business, or in any other place that may be agreed on by the attorney general and the person.

(F) 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 examine and read the transcript, unless examination and reading are waived by the witness. Any changes in form or substance that the witness desires to make shall be entered and identified on the transcript by the officer or the attorney general, with a statement of the reasons given by the witness for making the changes. The transcript shall then be signed by the witness, unless the witness waives the signing in writing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or the attorney general shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or attorney general shall take custody of the transcript.

(G) Any person compelled to appear for oral testimony under a civil investigative demand may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered on the record when it is claimed that the person is entitled to refuse to answer the question on the

grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. The person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If the person refuses to answer any question, a petition may be filed in the court of common pleas in Franklin county or in the county in which the examination takes place for an order compelling the person to answer the question.

If the person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of the person may be compelled in the manner provided in section 2945.44 of the Revised Code.

(H) Any person appearing for oral testimony under a civil investigative demand is entitled to the same fees and allowances that are paid to witnesses in the court of common pleas.

Sec. 2749.10. (A) Except as provided in this division, documentary material, answers to interrogatories, or transcripts of oral testimony received under section 2749.06 of the Revised Code, or copies of documentary material, answers to interrogatories, or transcripts of oral testimony so received, while in the possession of the attorney general, are not available for examination by any individual other than an employee of the attorney general. This prohibition on the availability of material, answers, or transcripts does not apply if the person who produced the material, answers, or transcripts gives consent. Nothing in this division is intended to prevent disclosure to the general assembly, including any committee or subcommittee of the general assembly, to any other state agency for use by the agency in furtherance of its statutory responsibilities, or to any law enforcement officer for use in

the furtherance of the law enforcement officer's duties. Disclosure of information to any agency other than those specified in this division shall be allowed only on application, made by the attorney general to a court of common pleas showing substantial need for the use of the information by the agency in furtherance of its statutory responsibilities.

(B) While in the possession of the attorney general and under any reasonable terms and conditions that the attorney general prescribes, documentary material and answers to interrogatories received under section 2749.06 of the Revised Code shall be available for examination by the person who produced the material or answers, or by a representative of that person authorized by that person to examine the material and answers.

The attorney general may use any documentary material, answers to interrogatories, or transcripts of oral testimony received under section 2749.06 of the Revised Code in connection with any case or proceeding before a court, grand jury, or state agency.

(C) If any documentary material has been produced by any person in the course of any investigation pursuant to a civil investigative demand under section 2749.06 of the Revised Code, the attorney general shall, on written request of the person who produced the material, return to the person the documentary material, other than copies furnished to the attorney general under division (D) of section 2749.07 of the Revised Code or made for the attorney general under division (B) of this section, that has not passed into the control of any court, grand jury, or agency through introduction into the record of the case or proceeding, or into the control of any law

enforcement officer, if either of the following applies:

(1) Any case or proceeding before the court or grand jury arising out of the investigation, or any proceeding before any state agency involving the material, has been completed.

(2) No case or proceeding in which the 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 the investigation.

(D) Documentary material, answers to written interrogatories, and oral testimony provided under a civil investigative demand issued under section 2749.06 of the Revised Code are not public records and are exempt from disclosure under section 149.43 of the Revised Code.