

By: Paul

H.B. No. 4012

Substitute the following for H.B. No. 4012:

By: Dean

C.S.H.B. No. 4012

A BILL TO BE ENTITLED

AN ACT

relating to health care and insurance fraud; creating a criminal offense; authorizing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 544.0103(e), Government Code, is amended to read as follows:

(e) The office of inspector general may:

(1) assess administrative penalties otherwise authorized by law on behalf of the commission or a health and human services agency;

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset the office of inspector general identifies as potentially subject to recovery by the office of inspector general due to the person's fraud or abuse;

(3) provide for coordination between the office of inspector general and special investigative units formed by managed care organizations under Subchapter H or entities with which managed care organizations contract under that subchapter;

(3-a) provide for coordination between the office of inspector general and the Texas Department of Insurance, as provided by Section 701.110, Insurance Code, to coordinate health care fraud detection and prevention in the state;

(4) audit the use and effectiveness of state or

1 federal funds, including contract and grant funds, administered by
2 a person or state agency receiving the funds from a health and human
3 services agency;

4 (5) conduct investigations relating to the funds
5 described by Subdivision (4); and

6 (6) recommend policies to:

7 (A) promote the economical and efficient
8 administration of the funds described by Subdivision (4); and

9 (B) prevent and detect fraud and abuse in the
10 administration of those funds.

11 SECTION 2. Subtitle B, Title 2, Insurance Code, is amended
12 by adding Chapter 87 to read as follows:

13 CHAPTER 87. CIVIL REMEDIES

14 Sec. 87.001. CIVIL REMEDIES. (a) Except as provided by
15 Subsection (c), a person who violates Section 35A.02(a-1), Penal
16 Code, is liable to the state for:

17 (1) the amount of a payment made by or the value of a
18 benefit provided by a health benefit plan issuer, directly or
19 indirectly, as a result of the violation, including any payment
20 made to a third party;

21 (2) interest on the amount of the payment or the value
22 of the benefit described by Subdivision (1) at the prejudgment
23 interest rate in effect on the day the payment or benefit was
24 received or paid, for the period from the date the benefit was
25 received or paid to the date that the state recovers the amount of
26 the payment or value of the benefit;

27 (3) a civil penalty of:

1 (A) not less than \$5,500 and not more than
2 \$15,000 for each violation committed by the person that results in
3 injury to an elderly person, as defined by Section 48.002(a)(1),
4 Human Resources Code, a person with a disability, as defined by
5 Section 48.002(a)(8)(A), Human Resources Code, or a person younger
6 than 18 years of age; or

7 (B) not less than \$5,500 and not more than
8 \$11,000 for each violation committed by the person that does not
9 result in injury to a person described by Paragraph (A); and

10 (4) two times the amount of the payment or the value of
11 the benefit described by Subdivision (1).

12 (b) In determining the amount of the civil penalty described
13 by Subsection (a)(3), the trier of fact shall consider:

14 (1) whether the person has previously violated Section
15 35A.02(a-1), Penal Code;

16 (2) the seriousness of the violation committed by the
17 person, including the nature, circumstances, extent, and gravity of
18 the violation;

19 (3) whether the health and safety of the public or an
20 individual was threatened by the violation;

21 (4) whether the person acted in bad faith when the
22 person engaged in the conduct that formed the basis of the
23 violation; and

24 (5) the amount necessary to deter future violations.

25 (c) The trier of fact may assess a total of not more than two
26 times the amount of a payment or the value of a benefit described by
27 Subsection (a)(1) if the trier of fact finds that:

1 (1) the person reported to the insurance fraud unit of
2 the department all information known to the person about the
3 violation not later than the 30th day after the date on which the
4 person first obtained the information; and

5 (2) at the time the person furnished all the
6 information to the insurance fraud unit of the department, the
7 insurance fraud unit of the department had not yet begun an
8 investigation under this chapter.

9 SECTION 3. Subchapter C, Chapter 701, Insurance Code, is
10 amended by adding Section 701.110 to read as follows:

11 Sec. 701.110. FRAUD PREVENTION PARTNERSHIP. (a) The
12 department shall, in coordination with the Health and Human
13 Services Commission office of inspector general, establish the
14 fraud prevention partnership to detect and prevent health care
15 fraud in this state across the private and public markets.

16 (b) The partnership shall include:

17 (1) a representative of one or more Medicaid managed
18 care organizations;

19 (2) a representative of one or more health benefit
20 plan issuers, as defined by Section 1222.0001; and

21 (3) any other appropriate person as determined by the
22 commissioner and inspector general.

23 SECTION 4. The heading to Chapter 703, Insurance Code, is
24 amended to read as follows:

25 CHAPTER 703. [~~COVERED ENTITY'S~~] ANTIFRAUD ACTION BY COVERED ENTITY
26 OR OTHER PRIVATE PERSON

27 SECTION 5. Chapter 703, Insurance Code, is amended by

adding Subchapter D to read as follows:

SUBCHAPTER D. ACTION BY PRIVATE PERSON

Sec. 703.151. ACTION BY PRIVATE PERSON AUTHORIZED. (a) A private person may bring a civil action for a violation of Section 35A.02(a-1), Penal Code, on behalf of the person and the state. The action must be brought in the name of the person and of the state.

(b) In an action brought under this subchapter, a person who violates Section 35A.02(a-1), Penal Code, is liable as provided by Section 87.001.

Sec. 703.152. INITIATION OF ACTION. (a) A person bringing an action under this subchapter shall serve a copy of the petition and a written disclosure of substantially all material evidence and information the person possesses on the attorney general in compliance with the Texas Rules of Civil Procedure.

(b) A person shall file a petition for an action under this subchapter in camera and, except as provided by Section 703.153(b) or (c), the petition must remain under seal until the earlier of:

(1) the 180th day after the date the petition is served on the attorney general; or

(2) the date on which the state elects to intervene.

(c) A person bringing an action under this subchapter may not serve process on a defendant until the court orders service of process.

Sec. 703.153. STATE INTERVENTION. (a) The state may elect to intervene and proceed with an action under this subchapter not later than the 180th day after the date the attorney general receives the petition and the material evidence and information

1 under Section 703.152(a).

2 (b) At the time the state intervenes in an action under this
3 subchapter, the attorney general may file a motion with the court
4 requesting that the petition remain under seal for an extended
5 period.

6 (c) In an action under this subchapter, the state may, for
7 good cause shown, move the court to extend the 180-day periods
8 prescribed by Subsection (a) or Section 703.152(b). A motion under
9 this subsection may be supported by affidavits or other submissions
10 in camera.

11 Sec. 703.154. CONSENT REQUIRED FOR DISMISSAL. An action
12 under this subchapter may be dismissed only if the court and the
13 attorney general consent in writing to the dismissal and state
14 their reasons for consenting.

15 Sec. 703.155. ANSWER BY DEFENDANT. A defendant is not
16 required to file in accordance with the Texas Rules of Civil
17 Procedure an answer to a petition filed under this subchapter until
18 the petition is unsealed and served on the defendant.

19 Sec. 703.156. STATE DECISION; CONTINUATION OF ACTION. (a)
20 Not later than the last day of the period prescribed by Section
21 703.153(a) or an extension of that period as provided by Section
22 703.153(c), the state shall:

23 (1) proceed with the action; or
24 (2) notify the court that the state declines to take
25 over the action.

26 (b) If the state declines to take over an action under this
27 subchapter, the person bringing the action may proceed without the

1 state's participation. A person proceeding under this subsection
2 may recover for a violation for a period of up to six years before
3 the date the action was filed, or for a period beginning when the
4 violation occurred until up to three years from the date the state
5 knows or reasonably should have known facts material to the
6 violation, whichever of these two periods is longer, regardless of
7 whether the violation occurred more than six years before the date
8 the action was filed. Notwithstanding this subsection, a person
9 proceeding under this subsection may not recover for a violation
10 that occurred more than 10 years before the date the action was
11 filed.

12 (c) On request by the state, the state is entitled to be
13 served with copies of all pleadings filed in an action under this
14 subchapter and be provided at the state's expense with copies of all
15 deposition transcripts. If the person bringing the action proceeds
16 without the state's participation, the court, without limiting the
17 status and right of that person, may permit the state to intervene
18 at a later date on a showing of good cause.

19 Sec. 703.157. REPRESENTATION OF STATE BY PRIVATE ATTORNEY.
20 The attorney general may contract with a private attorney to
21 represent the state in an action under this subchapter with which
22 the state elects to proceed.

23 Sec. 703.158. INTERVENTION BY OTHER PARTIES PROHIBITED. A
24 person other than the state may not intervene or bring a related
25 action based on the facts underlying a pending action under this
26 subchapter.

27 Sec. 703.159. RIGHTS OF PARTIES IF STATE CONTINUES ACTION.

1 (a) If the state proceeds with an action under this subchapter, the
2 state has the primary responsibility for prosecuting the action and
3 is not bound by an act of the person bringing the action. The person
4 bringing the action has the right to continue as a party to the
5 action, subject to the limitations set forth by this section.

6 (b) The state may dismiss an action under this subchapter
7 notwithstanding the objections of the person bringing the action
8 if:

9 (1) the attorney general notifies the person that the
10 state has filed a motion to dismiss; and

11 (2) the court provides the person with an opportunity
12 for a hearing on the motion.

13 (c) The state may settle an action under this subchapter
14 with the defendant notwithstanding the objections of the person
15 bringing the action if the court determines, after a hearing, that
16 the proposed settlement is fair, adequate, and reasonable under all
17 the circumstances. On a showing of good cause, the hearing may be
18 held in camera.

19 (d) On a showing by the state that unrestricted
20 participation during the course of the litigation by the person
21 bringing an action under this subchapter would interfere with or
22 unduly delay the state's prosecution of the action, or would be
23 repetitious, irrelevant, or for purposes of harassment, the court
24 may impose limitations on the person's participation, including:

25 (1) limiting the number of witnesses the person may
26 call;

27 (2) limiting the length of the testimony of witnesses

1 called by the person;

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

4 (4) otherwise limiting the participation by the person
5 in the litigation.

6 (e) On a showing by a defendant in an action under this
7 subchapter that unrestricted participation during the course of the
8 litigation by the person bringing the action would be for purposes
9 of harassment or would cause the defendant undue burden or
10 unnecessary expense, the court may limit the participation by the
11 person in the litigation.

12 Sec. 703.160. STAY OF CERTAIN DISCOVERY. (a) On a showing
13 by the state that certain actions of discovery by the person
14 bringing an action under this subchapter would interfere with the
15 state's investigation or prosecution of a criminal or civil matter
16 arising out of the same facts, the court may stay the discovery for
17 a period not to exceed 60 days.

18 (b) The court shall hear a motion to stay discovery under
19 this section in camera.

20 (c) The court may extend the period prescribed by Subsection
21 (a) on a further showing in camera that the state has pursued the
22 criminal or civil investigation or proceedings with reasonable
23 diligence and that any proposed discovery in the civil action will
24 interfere with the ongoing criminal or civil investigation or
25 proceedings.

26 Sec. 703.161. PURSUIT OF ALTERNATE REMEDY BY STATE. (a)
27 Notwithstanding Section 703.151, the state may elect to pursue the

1 state's claim through any alternate remedy available to the state,
2 including any administrative proceeding to determine an
3 administrative penalty. If an alternate remedy is pursued in
4 another proceeding, the person bringing an action under this
5 subchapter has the same rights in the other proceeding as the person
6 would have had if the action had continued under this subchapter.

7 (b) A finding of fact or conclusion of law made in the other
8 proceeding that has become final is conclusive on all parties to an
9 action under this subchapter. For purposes of this subsection, a
10 finding or conclusion is final if:

11 (1) the finding or conclusion has been finally
12 determined on appeal to the appropriate court;

13 (2) no appeal has been filed with respect to the
14 finding or conclusion and all time for filing an appeal has expired;
15 or

16 (3) the finding or conclusion is not subject to
17 judicial review.

18 Sec. 703.162. AWARD TO PRIVATE CLAIMANT. (a) If the state
19 proceeds with an action under this subchapter, the person bringing
20 the action is entitled, except as provided by Subsection (c), to
21 receive at least 15 percent but not more than 25 percent of the
22 proceeds of the action, depending on the extent to which the person
23 substantially contributed to the prosecution of the action.

24 (b) If the state does not proceed with an action under this
25 subchapter, the person bringing the action is entitled, except as
26 provided by Subsection (c), to receive at least 25 percent but not
27 more than 30 percent of the proceeds of the action. The entitlement

1 of a person under this subsection is not affected by any subsequent
2 intervention in the action by the state in accordance with Section
3 703.156(c).

4 (c) If the court finds that an action under this subchapter
5 is based primarily on disclosures of specific information, other
6 than information provided by the person bringing the action,
7 relating to allegations or transactions in a Texas or federal
8 criminal or civil hearing, in a Texas or federal legislative or
9 administrative report, hearing, audit, or investigation, or from
10 the news media, the court may award the amount the court considers
11 appropriate but not more than 10 percent of the proceeds of the
12 action. The court shall consider the significance of the
13 information and the role of the person bringing the action in
14 advancing the case to litigation.

15 (d) A payment to a person under this section shall be made
16 from the proceeds of the action. A person receiving a payment under
17 this section is also entitled to receive from the defendant an
18 amount for reasonable expenses, reasonable attorney's fees, and
19 costs that the court finds to have been necessarily incurred. The
20 court's determination of expenses, fees, and costs to be awarded
21 under this subsection shall be made only after the defendant has
22 been found liable in the action or the claim is settled.

23 (e) In this section, "proceeds of the action" includes
24 proceeds of a settlement of the action.

25 Sec. 703.163. REDUCTION OF AWARD. (a) If the court finds
26 that an action under this subchapter was brought by a person who
27 planned and initiated the violation on which the action was

1 brought, the court may, to the extent the court considers
2 appropriate, reduce the share of the proceeds of the action the
3 person would otherwise receive under Section 703.162, taking into
4 account the person's role in advancing the case to litigation and
5 any relevant circumstances pertaining to the violation.

6 (b) If the person bringing an action under this subchapter
7 is convicted of criminal conduct arising from the person's role in
8 the violation, the court shall dismiss the person from the civil
9 action and the person may not receive any share of the proceeds of
10 the action. A dismissal under this subsection does not prejudice
11 the right of the state to continue the action.

12 Sec. 703.164. AWARD TO DEPARTMENT. (a) If the state
13 proceeds with an action under this subchapter, the department is
14 entitled to receive at least 15 percent but not more than 25 percent
15 of the proceeds of the action, depending on the extent to which the
16 department substantially contributed to the prosecution of the
17 action.

18 (b) In this section, "proceeds of the action" includes
19 proceeds of a settlement of the action.

20 Sec. 703.165. AWARD TO INJURED HEALTH BENEFIT PLAN ISSUER.
21 (a) In this section, "health benefit plan issuer" has the meaning
22 assigned by Section 35A.01, Penal Code.

23 (b) If the person bringing an action under this subchapter
24 is not a health benefit plan issuer harmed by the violation that is
25 the subject of the action, the health benefit plan issuer is
26 entitled to any money remaining after all awards and costs are
27 distributed as provided by this subchapter, including, in an action

1 where the state proceeds, reasonable expenses, reasonable
2 attorney's fees, and costs to the state that the court finds to have
3 been necessarily incurred.

4 Sec. 703.166. AWARD TO DEFENDANT FOR FRIVOLOUS ACTION.
5 Chapter 105, Civil Practice and Remedies Code, applies to an action
6 under this subchapter with which the state proceeds.

7 Sec. 703.167. CERTAIN ACTIONS BARRED. (a) A person may not
8 bring an action under this subchapter that is based on allegations
9 or transactions that are the subject of a civil action or an
10 administrative penalty proceeding in which the state is already a
11 party.

12 (b) The court shall dismiss an action or claim under this
13 subchapter, unless opposed by the attorney general, if
14 substantially the same allegations or transactions as alleged in
15 the action or claim were publicly disclosed in a Texas or federal
16 criminal or civil hearing in which the state or an agent of the
17 state is a party, in a legislative or administrative report of this
18 state, or other hearing, audit, or investigation in this state, or
19 from the news media, unless the person bringing the action is an
20 original source of the information. In this subsection, "original
21 source" means an individual who:

22 (1) before a public disclosure described by this
23 subsection, has voluntarily disclosed to the state the information
24 on which allegations or transactions in a claim are based; or

25 (2) has knowledge that is independent of and
26 materially adds to the publicly disclosed allegations or
27 transactions and who has voluntarily provided the information to

1 the state before filing an action under this subchapter.

2 Sec. 703.168. STATE NOT LIABLE FOR CERTAIN EXPENSES. The
3 state is not liable for expenses that a person incurs in bringing an
4 action under this subchapter.

5 Sec. 703.169. RETALIATION AGAINST PERSON PROHIBITED. (a)
6 A person, including an employee, contractor, or agent, who is
7 discharged, demoted, suspended, threatened, harassed, or in any
8 other manner discriminated against in the terms or conditions of
9 employment because of a lawful act taken by the person or associated
10 others in furtherance of an action under this subchapter, including
11 investigation for, initiation of, testimony for, or assistance in
12 an action filed or to be filed under this subchapter, or other
13 efforts taken by the person to stop one or more violations is
14 entitled to:

15 (1) reinstatement with the same seniority status the
16 person would have had but for the discrimination; and

17 (2) not less than two times the amount of back pay,
18 interest on the back pay, and compensation for any special damages
19 sustained as a result of the discrimination, including litigation
20 costs and reasonable attorney's fees.

21 (b) A person may bring an action under this section in the
22 appropriate district court not later than the third anniversary of
23 the date on which the cause of action accrues. For purposes of this
24 subsection, the cause of action accrues on the date the retaliation
25 occurs.

26 Sec. 703.170. SOVEREIGN IMMUNITY NOT WAIVED. Except as
27 provided by Section 703.166, this subchapter does not waive

1 sovereign immunity.

2 Sec. 703.171. ATTORNEY GENERAL COMPENSATION. The attorney
3 general may retain a reasonable portion of the amount recovered
4 under this subchapter, not to exceed amounts specified in the
5 General Appropriations Act, for the administration of this
6 subchapter.

7 SECTION 6. Section 35A.01, Penal Code, is amended by adding
8 Subdivisions (2-a), (2-b), and (2-c) and amending Subdivision (9)
9 to read as follows:

10 (2-a) "Health benefit claim" means a written or
11 electronically submitted request or demand that:

12 (A) is submitted by a person who provides or
13 purports to provide a service or product to an individual covered
14 under a health benefit plan or by that person's agent and identifies
15 a service or product provided or purported to have been provided to
16 the covered individual as reimbursable under the health benefit
17 plan, without regard to whether the money that is requested or
18 demanded is paid and without regard to whether the individual was
19 eligible for benefits under the health benefit plan; or

20 (B) states the income earned or expense incurred
21 by a person in providing a service or product to an individual
22 covered by a health benefit plan and is used to determine a rate of
23 payment under the plan.

24 (2-b) "Health benefit plan" means a health insurance
25 policy, a health care plan, as defined by Section 843.002,
26 Insurance Code, or another agreement, contract, or evidence of
27 coverage under which a person undertakes to provide, arrange for,

1 pay for, or reimburse any part of the cost of health care services.

2 (2-c) "Health benefit plan issuer" means a person who
3 is authorized or otherwise permitted by law to issue a health
4 insurance policy, to arrange for or provide a health care plan, as
5 defined by Section 843.002, Insurance Code, or to otherwise provide
6 health benefit plan coverage.

7 (9) "Service" includes care or treatment of a health
8 care recipient or an individual covered under a health benefit
9 plan.

10 SECTION 7. Section 35A.02, Penal Code, is amended by adding
11 Subsection (a-1) and amending Subsections (b) and (d) to read as
12 follows:

13 (a-1) A person commits an offense if the person:

14 (1) knowingly makes or causes to be made a false
15 statement or misrepresentation of a material fact to permit a
16 person to receive from a health benefit plan issuer a benefit or
17 payment that is not authorized or that is greater than the benefit
18 or payment that is authorized;

19 (2) knowingly conceals or fails to disclose
20 information that permits a person to receive from a health benefit
21 plan issuer a benefit or payment that is not authorized or that is
22 greater than the benefit or payment that is authorized;

23 (3) knowingly makes or causes to be made a health
24 benefit claim to a health benefit plan issuer for:

25 (A) a service or product that has not been
26 approved or acquiesced in by a treating physician or health care
27 practitioner;

1 (B) a service or product that is substantially
2 inadequate or inappropriate when compared to generally recognized
3 standards within the particular discipline or within the health
4 care industry; or

5 (C) a product that has been adulterated, debased,
6 or mislabeled or that is otherwise inappropriate; or

7 (4) knowingly enters into an agreement, combination,
8 or conspiracy to defraud a health benefit plan issuer by obtaining
9 or aiding another person in obtaining an unauthorized payment or
10 benefit from a health benefit plan issuer.

11 (b) An offense under this section is:

12 (1) a Class C misdemeanor if the amount of any payment
13 or the value of any monetary or in-kind benefit provided or claim
14 for payment made under a health care program, or the amount of a
15 payment made by or the value of a benefit provided by or claim for
16 payment made to a health benefit plan issuer, directly or
17 indirectly, as a result of the conduct is less than \$100;

18 (2) a Class B misdemeanor if the amount of any payment
19 or the value of any monetary or in-kind benefit provided or claim
20 for payment made under a health care program, or the amount of a
21 payment made by or the value of a benefit provided by or claim for
22 payment made to a health benefit plan issuer, directly or
23 indirectly, as a result of the conduct is \$100 or more but less than
24 \$750;

25 (3) a Class A misdemeanor if the amount of any payment
26 or the value of any monetary or in-kind benefit provided or claim
27 for payment made under a health care program, or the amount of a

1 payment made by or the value of a benefit provided by or claim for
2 payment made to a health benefit plan issuer, directly or
3 indirectly, as a result of the conduct is \$750 or more but less than
4 \$2,500;

5 (4) a state jail felony if:

6 (A) the amount of any payment or the value of any
7 monetary or in-kind benefit provided or claim for payment made
8 under a health care program, or the amount of a payment made by or
9 the value of a benefit provided by or claim for payment made to a
10 health benefit plan issuer, directly or indirectly, as a result of
11 the conduct is \$2,500 or more but less than \$30,000;

12 (B) the offense is committed under Subsection
13 (a)(11); or

14 (C) it is shown on the trial of the offense that
15 the amount of the payment or value of the benefit described by this
16 subsection cannot be reasonably ascertained;

17 (5) a felony of the third degree if:

18 (A) the amount of any payment or the value of any
19 monetary or in-kind benefit provided or claim for payment made
20 under a health care program, or the amount of a payment made by or
21 the value of a benefit provided by or claim for payment made to a
22 health benefit plan issuer, directly or indirectly, as a result of
23 the conduct is \$30,000 or more but less than \$150,000; or

24 (B) it is shown on the trial of the offense that
25 the defendant submitted more than 25 but fewer than 50 fraudulent
26 claims under a health care program or to a health benefit plan
27 issuer, as applicable, and the submission of each claim constitutes

conduct prohibited by Subsection (a) or (a-1), as applicable;

(6) a felony of the second degree if:

(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, or the amount of a payment made by or the value of a benefit provided by or claim for payment made to a health benefit plan issuer, directly or indirectly, as a result of the conduct is \$150,000 or more but less than \$300,000; or

(B) it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under a health care program or to a health benefit plan issuer, as applicable, and the submission of each claim constitutes conduct prohibited by Subsection (a) or (a-1), as applicable; or

(7) a felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, or the amount of a payment made by or the value of a benefit provided by or claim for payment made to a health benefit plan issuer, directly or indirectly, as a result of the conduct is \$300,000 or more.

(d) When multiple payments or monetary or in-kind benefits are provided under one or more health care programs or by one or more health benefit plan issuers as a result of one scheme or continuing course of conduct, the conduct may be considered as one offense and the amounts of the payments or monetary or in-kind benefits aggregated in determining the grade of the offense.

SECTION 8. Section 3(a)(3), Article 37.07, Code of Criminal Procedure, is amended to read as follows:

1 (3) Regardless of the plea and whether the punishment
2 is assessed by the judge or the jury, during the punishment phase of
3 the trial of an offense under Section 35A.02, Penal Code, subject to
4 the applicable rules of evidence, the state and the defendant may
5 offer evidence not offered during the guilt or innocence phase of
6 the trial concerning the total pecuniary loss to the affected
7 health care program or health benefit plan issuer, as applicable,
8 caused by the defendant's conduct or, if applicable, the scheme or
9 continuing course of conduct of which the defendant's conduct is
10 part. Evidence may be offered in summary form concerning the total
11 pecuniary loss to the affected health care program or health
12 benefit plan issuer, as applicable. Testimony regarding the total
13 pecuniary loss to the affected health care program or health
14 benefit plan issuer, as applicable, is subject to
15 cross-examination. Evidence offered under this subdivision may be
16 considered by the judge or jury in ordering or recommending the
17 amount of any restitution to be made to the affected health care
18 program or health benefit plan issuer, as applicable, or the
19 appropriate punishment for the defendant.

20 SECTION 9. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 governed by the law in effect at the time the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

C.S.H.B. No. 4012

1 SECTION 10. This Act takes effect September 1, 2025.