

Representative Bradley G. Last proposes the following substitute bill:

MEDICAID FALSE CLAIMS ACT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill amends the Medicaid False Claims Act in the Health Code.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ clarifies the required mental state for a civil and a criminal prosecution;
- ▶ amends penalties for a violation of the act;
- ▶ grants concurrent civil enforcement authority to the attorney general and the

Department of Health;

- ▶ provides a statute of limitations period;
- ▶ establishes burden of proof for civil actions;
- ▶ gives authority to issue civil investigative demands; and
- ▶ amends the duties of the attorney general.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 **26-20-1**, as enacted by Chapter 126, Laws of Utah 1981
- 29 **26-20-2**, as last amended by Chapter 46, Laws of Utah 1986
- 30 **26-20-5**, as enacted by Chapter 126, Laws of Utah 1981
- 31 **26-20-7**, as last amended by Chapter 92, Laws of Utah 1987
- 32 **26-20-9**, as enacted by Chapter 46, Laws of Utah 1986
- 33 **26-20-9.5**, as last amended by Chapter 92, Laws of Utah 1987
- 34 **26-20-13**, as enacted by Chapter 316, Laws of Utah 2000
- 35 **67-5-1**, as last amended by Chapters 130, 235 and 242, Laws of Utah 2002

36 ENACTS:

- 37 **26-20-14**, Utah Code Annotated 1953
- 38 **26-20-15**, Utah Code Annotated 1953

39 REPEALS AND REENACTS:

- 40 **26-20-4**, as last amended by Chapter 46, Laws of Utah 1986
- 41 **26-20-12**, as enacted by Chapter 46, Laws of Utah 1986



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **26-20-1** is amended to read:

45 **CHAPTER 20. UTAH FALSE CLAIMS ACT**

46 **26-20-1. Title.**

47 This chapter [~~shall be known and may be cited~~] is known as the "Utah False Claims
48 Act."

49 Section 2. Section **26-20-2** is amended to read:

50 **26-20-2. Definitions.**

51 As used in this chapter:

52 (1) "Benefit" means the receipt of money, goods, or any other thing of pecuniary value.

53 (2) "Claim" means any request or demand for money or property:

54 (a) made to any:

55 (i) employee, officer, or agent of the state;

56 (ii) contractor with the state; or

57 (iii) grantee or other recipient, whether or not under contract with the state; and

58 (b) if:

59 (i) any portion of the money or property requested or demanded was issued from or
60 provided by the state; or

61 (ii) the state will reimburse the contractor, grantee, or other recipient for any portion of
62 the money or property.

63 ~~[(2)]~~ (3) "False statement" or "false representation" means a wholly or partially untrue
64 statement or representation which is ~~§~~ :

64a (a) ~~←~~§ knowingly [~~and willfully~~] made [~~if the person making the~~
65 ~~statement or representation has knowledge of the falsity thereof~~] ~~§~~ ; and

65a (b) a material fact with respect to the claim ~~←~~§ .

66 ~~[(3)]~~ (4) "Knowing" and "knowingly" [~~mean that a person is aware of the nature of his~~
67 ~~conduct and that his conduct is substantially certain to cause the intended result.~~]:

68 (a) for purposes of criminal prosecutions for violations of this chapter, is one of the
69 culpable mental states described in Subsection 26-20-9(1); and

70 (b) for purposes of civil prosecutions for violations of this chapter, is the required
71 culpable mental state as defined in Subsection 26-20-9.5(1).

72 ~~[(4)]~~ (5) "Medical benefit" means a benefit paid or payable to a recipient or a provider
73 under a program administered by the state under:

74 (a) Titles V and XIX of the federal Social Security Act[;];

75 (b) Title X of the federal Public Health Services Act[;];

76 (c) the federal Child Nutrition Act of 1966 as amended by P.L. 94-105; and

77 (d) any programs for medical assistance of the state.

78 ~~[(5)]~~ (6) "Person" means an individual, corporation, unincorporated association,
79 professional corporation, partnership, or other form of business association.

80 Section 3. Section **26-20-4** is repealed and reenacted to read:

81 **26-20-4. Kickbacks or bribes prohibited.**

82 (1) For purposes of this section, kickback or bribe:

83 (a) includes rebates, compensation, or any other form of remuneration which is:

84 (i) direct or indirect;

85 (ii) overt or covert; or

86 (iii) in cash or in kind; and

87 (b) does not include a rebate paid to the state under 42 U.S.C. Sec. 1396r-8 or any state

88 supplemental rebates.

89 (2) A person may not solicit, offer, pay, or receive a kickback or bribe in return for or
90 to induce:

91 (a) the purchasing, leasing, or ordering of any goods or services for which payment is
92 or may be made in whole or in part pursuant to a medical benefit program; or

93 (b) the referral of an individual to another person for the furnishing of any goods or
94 services for which payment is or may be made in whole or in part pursuant to a medical benefit
95 program.

96 Section 4. Section **26-20-5** is amended to read:

97 **26-20-5. False statements or false representations relating to qualification of**
98 **health institution or facility prohibited -- Felony.**

99 (1) A person [~~shall~~] may not knowingly [~~and willfully~~], intentionally, or recklessly
100 make, [~~or~~] induce, or seek to induce, the making of a false statement or false representation of a
101 material fact with respect to the conditions or operation of an institution or facility in order that
102 the institution or facility may qualify, upon initial certification or upon recertification, as a
103 hospital, skilled nursing facility, intermediate care facility, or home health agency.

104 (2) A person who violates this section is guilty of a second degree felony.

105 Section 5. Section **26-20-7** is amended to read:

106 **26-20-7. False claims for medical benefits prohibited.**

107 (1) [~~No~~] A person may not make or present or cause to be made or presented to an
108 employee or officer of the state a claim for a medical benefit[~~, knowing the claim to be~~]:

109 (a) which is wholly or partially false, fictitious, or fraudulent[-];

110 [~~(2) In addition, no person shall knowingly:~~]

111 [~~(a) file a claim for a medical benefit]~~

112 (b) for services which were not rendered or for items or materials which were not
113 delivered;

114 [~~(b) file a claim for a medical benefit]~~

115 (c) which misrepresents the type, quality, or quantity of items or services rendered;

116 [~~(c) file a claim for a medical benefit]~~

117 (d) representing charges at a higher rate than those charged by the provider to the
118 general public;

119 ~~[(d) file a claim for a medical benefit]~~
 120 (e) for items or services which the person or the provider knew were not medically
 121 necessary in accordance with professionally recognized standards;
 122 ~~[(e) file a claim for a medical benefit]~~
 123 (f) which has previously been paid;
 124 ~~[(f) fail to credit the state for payments received from other sources;]~~
 125 (g) [file a claim for a medical benefit] for services also covered by one or more private
 126 sources when the person or provider knew of the private sources without disclosing those
 127 sources on the claim; or
 128 (h) where a provider:
 129 (i) unbundles a product, procedure, or group of procedures usually and customarily
 130 provided or performed as a single billable product or procedure into artificial components or
 131 separate procedures; and
 132 (ii) bills for each component of the product, procedure, or group of procedures:
 133 (A) as if they had been provided or performed independently and at separate times; and
 134 (B) the aggregate billing for the components exceeds the amount otherwise billable for
 135 the usual and customary single product or procedure.
 136 (2) In addition to the prohibitions in Subsection (1), a person may not:
 137 (a) fail to credit the state for payments received from other sources;
 138 ~~[(h)]~~ (b) recover or attempt to recover payment in violation of the provider agreement
 139 from:
 140 (i) a recipient under a medical benefit program[;]; or
 141 (ii) the recipient's family [in violation of the provider agreement];
 142 ~~[(i) file a claim for a medical benefit where a provider divides an accepted multiple~~
 143 ~~medical procedure into artificial components or single procedures requesting full medical~~
 144 ~~benefits for performing those component procedures as if they had each been performed~~
 145 ~~independently and at separate times;]~~
 146 ~~[(j)]~~ (c) falsify or alter with intent to deceive, any report or document required by state
 147 or federal law, rule, or Medicaid provider agreement;
 148 ~~[(k)]~~ (d) retain any unauthorized payment as a result of acts described by this section;
 149 or

150 ~~[(+)]~~ (e) aid or abet the commission of any act prohibited by this section.

151 Section 6. Section 26-20-9 is amended to read:

152 **26-20-9. Criminal penalties.**

153 (1) ~~§→~~ ~~[The]~~ (a) **Except as provided in Subsection (1)(b) the** ~~←§~~ culpable mental state
153a required for a criminal violation of this chapter is

154 knowingly, intentionally, or recklessly as defined in Section 76-2-103.

154a ~~§→~~ (b) **The culpable mental state required for a criminal violation of this chapter for**
154b **kickbacks and bribes under Section 26-20-4 is knowingly and intentionally as defined in**
154c **Section 76-2-103.** ~~←§~~

155 ~~[(+)]~~ (2) The punishment for a criminal violation of any provision of this chapter,
156 except as provided under Section 26-20-5, is determined by the cumulative value of the funds
157 or other benefits received or claimed in the commission of all violations of a similar nature,
158 and not by each separate violation.

159 ~~[(2)]~~ (3) Punishment for criminal violation of this chapter, except as provided under
160 Section 26-20-5, is ~~[as follows:]~~ a felony of the second degree, felony of the third degree, class
161 A misdemeanor, or class B misdemeanor based on the dollar amounts as prescribed by
162 Subsection 76-6-412(1) for theft of property and services.

163 ~~[(a) as a felony of the second degree if the cumulative value of the funds or other~~
164 ~~benefits received or claimed in violation of this chapter exceeds \$1,000;]~~

165 ~~[(b) as a felony of the third degree if the cumulative value of the funds or other benefits~~
166 ~~received or claimed in violation of this chapter exceeds \$250 but does not exceed \$1,000;]~~

167 ~~[(c) as a class A misdemeanor if the cumulative value of the funds or other benefits~~
168 ~~received or claimed in violation of this chapter exceeds \$100 but does not exceed \$250; or]~~

169 ~~[(d) as a class B misdemeanor if the cumulative value of the funds or other benefits~~
170 ~~received or claimed in violation of this chapter does not exceed \$100.]~~

171 Section 7. Section 26-20-9.5 is amended to read:

172 **26-20-9.5. Civil penalties.**

173 (1) The culpable mental state required for a civil violation of this chapter is "knowing"
174 or "knowingly" which:

175 (a) means that person, with respect to information:

176 (i) has actual knowledge of the information;

177 (ii) acts in deliberate ignorance of the truth or falsity of the information; or

178 (iii) acts in reckless disregard of the truth or falsity of the information; and

179 (b) does not require a specific intent to defraud.

180 ~~[(+)]~~ (2) Any person who violates this chapter shall, in all cases, in addition to other

181 penalties provided by law, be ~~[subject to the following civil penalties]~~ required to:

182 (a) ~~[in all cases, shall be required to]~~ make full and complete restitution to the state of
 183 all ~~H~~→ [medical benefits improperly obtained] damages that the state sustains because of
 183a the person's violation of this chapter ←~~H~~ ;

184 (b) ~~[in all cases, shall be required to]~~ pay to the state its costs of enforcement of this
 185 chapter in that case, including but not limited to the cost of investigators, attorneys, and other
 186 public employees, as determined by the ~~[Bureau of Medicaid Fraud;]~~ state; and

187 (c) ~~[may be required, in the discretion of the court, to]~~ pay to the state a civil penalty
 188 ~~[not to exceed]~~ equal to:

189 (i) three times the amount of ~~[value improperly claimed or received as a medical~~
 190 ~~benefit; or]~~ damages that the state sustains because of the person's violation of this chapter; and
 191 ~~[(d) may be required, in the discretion of the court, to pay to the state a civil penalty of~~
 192 ~~up to \$2,000]~~

193 (ii) not less than \$5,000 or more than \$10,000 for each claim filed or act done in
 194 violation of this chapter.

195 ~~[(2)]~~ (3) Any civil penalties assessed under Subsection ~~[(1)]~~ (2) shall be awarded by the
 196 court as part of its judgment in both criminal and civil actions.

197 ~~[(3)]~~ (4) A criminal action need not be brought against a person in order for that person
 198 to be civilly liable under this section.

199 Section 8. Section **26-20-12** is repealed and reenacted to read:

200 **26-20-12. Violation of other laws.**

201 (1) The provisions of this chapter are:

202 (a) not exclusive, and the remedies provided for in this chapter are in addition to any
 203 other remedies provided for under:

204 (i) any other applicable law; or

205 (ii) common law; and

206 (b) to be liberally construed and applied to:

207 (i) effectuate the chapter's remedial and deterrent purposes; and

208 (ii) serve the public interest.

209 (2) If any provision of this chapter or the application of this chapter to any person or
 210 circumstance is held unconstitutional:

211 (a) the remaining provisions of this chapter shall not be affected; and

212 (b) the application of this chapter to other persons or circumstances shall not be
213 affected.

214 Section 9. Section **26-20-13** is amended to read:

215 **26-20-13. Medicaid fraud enforcement.**

216 (1) This chapter shall be enforced in accordance with this section.

217 (2) The department [~~shall be~~] is responsible for:

218 (a) (i) investigating and prosecuting [all] suspected civil violations of this chapter;
219 [and] or

220 (ii) referring suspected civil violations of this chapter to the attorney general for
221 investigation and prosecution; and

222 (b) promptly referring suspected criminal violations of this chapter to the attorney
223 general for criminal investigation and prosecution.

224 (3) The attorney general [~~shall be responsible for:~~] has:

225 (a) concurrent jurisdiction with the department for investigating and prosecuting
226 suspected civil violations of this chapter; and

227 [(a) investigating] (b) exclusive jurisdiction to investigate and prosecute all suspected
228 criminal violations of this chapter [that are reported to the attorney general by the department
229 or others];

230 [(b) promptly referring probable civil violations of this chapter that are not related to a
231 criminal investigation or prosecution to the department for civil investigation and prosecution;
232 and]

233 [(c) prosecuting criminal violations of this chapter.]

234 (4) The department and the attorney general share concurrent civil enforcement
235 authority under this chapter and may enter into an interagency agreement regarding the
236 investigation and prosecution of violations of this chapter in accordance with this section, the
237 requirements of Title XIX of the federal Social Security Act, and applicable federal regulations.

238 (5) Any violation of this chapter which comes to the attention of any state government
239 officer or agency shall be reported to the attorney general or the department. All state
240 government officers and agencies shall cooperate with and assist in any prosecution for
241 violation of this chapter.

242 Section 10. Section **26-20-14** is enacted to read:

243 **26-20-14. Investigations -- Civil investigative demands.**

244 (1) The attorney general may take investigative action under Subsection (2) if the
245 attorney general has reason to believe that:

246 (a) a person has information or custody or control of documentary material relevant to
247 the subject matter of an investigation of an alleged violation of this chapter;

248 (b) a person is committing, has committed, or is about to commit a violation of this
249 chapter; or

250 (c) it is in the public interest to conduct an investigation to ascertain whether or not a
251 person is committing, has committed, or is about to commit a violation of this chapter.

252 (2) In taking investigative action, the attorney general may:

253 (a) require the person to file on a prescribed form a statement in writing, under oath or
254 affirmation describing:

255 (i) the facts and circumstances concerning the alleged violation of this chapter; and

256 (ii) other information considered necessary by the attorney general;

257 (b) examine under oath a person in connection with the alleged violation of this
258 chapter; and

259 (c) in accordance with Subsections (7) through (18), execute in writing, and serve on
260 the person, a civil investigative demand requiring the person to produce the documentary
261 material and permit inspection and copying of the material.

262 (3) The attorney general may not release or disclose information that is obtained under
263 Subsection (2)(a) or (b), or any documentary material or other record derived from the
264 information obtained under Subsection (2)(a) or (b), except:

265 (a) by court order for good cause shown;

266 (b) with the consent of the person who provided the information;

267 (c) to an employee of the attorney general or the department;

268 (d) to an agency of this state, the United States, or another state;

269 (e) to a special assistant attorney general representing the state in a civil action;

270 (f) to a political subdivision of this state; or

271 (g) to a person authorized by the attorney general to receive the information.

272 (4) The attorney general may use documentary material derived from information
273 obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general

274 determines necessary in the enforcement of this chapter, including presentation before a court.

275 (5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to
276 submit to an examination as required by Subsection (2)(b), the attorney general may file in
277 district court a complaint for an order to compel the person to within a period stated by court
278 order:

279 (i) file the statement required by Subsection (2)(a); or

280 (ii) submit to the examination required by Subsection (2)(b).

281 (b) Failure to comply with an order entered under Subsection (5)(a) is punishable as
282 contempt.

283 (6) A civil investigative demand must:

284 (a) state the rule or statute under which the alleged violation of this chapter is being
285 investigated;

286 (b) describe the:

287 (i) general subject matter of the investigation; and

288 (ii) class or classes of documentary material to be produced with reasonable specificity
289 to fairly indicate the documentary material demanded;

290 (c) designate a date within which the documentary material is to be produced; and

291 (d) identify an authorized employee of the attorney general to whom the documentary
292 material is to be made available for inspection and copying.

293 (7) A civil investigative demand may require disclosure of any documentary material
294 that is discoverable under the Utah Rules of Civil Procedure.

295 (8) Service of a civil investigative demand may be made by:

296 (a) delivering an executed copy of the demand to the person to be served or to a
297 partner, an officer, or an agent authorized by appointment or by law to receive service of
298 process on behalf of that person;

299 (b) delivering an executed copy of the demand to the principal place of business in this
300 state of the person to be served; or

301 (c) mailing by registered or certified mail an executed copy of the demand addressed to
302 the person to be served:

303 (i) at the person's principal place of business in this state; or

304 (ii) if the person has no place of business in this state, to the person's principal office or

305 place of business.

306 (9) Documentary material demanded in a civil investigative demand shall be produced
307 for inspection and copying during normal business hours at the office of the attorney general or
308 as agreed by the person served and the attorney general.

309 (10) The attorney general may not produce for inspection or copying or otherwise
310 disclose the contents of documentary material obtained pursuant to a civil investigative demand
311 except:

312 (a) by court order for good cause shown;

313 (b) with the consent of the person who produced the information;

314 (c) to an employee of the attorney general or the department;

315 (d) to an agency of this state, the United States, or another state;

316 (e) to a special assistant attorney general representing the state in a civil action;

317 (f) to a political subdivision of this state; or

318 (g) to a person authorized by the attorney general to receive the information.

319 (11) (a) With respect to documentary material obtained pursuant to a civil investigative
320 demand, the attorney general shall prescribe reasonable terms and conditions allowing such
321 documentary material to be available for inspection and copying by the person who produced
322 the material or by an authorized representative of that person.

323 (b) The attorney general may use such documentary material or copies of it as the
324 attorney general determines necessary in the enforcement of this chapter, including presentation
325 before a court.

326 (12) A person may file a complaint, stating good cause, to extend the return date for the
327 demand or to modify or set aside the demand. A complaint under this Subsection (12) shall be
328 filed in district court and must be filed before the earlier of:

329 (a) the return date specified in the demand; or

330 (b) the 20th day after the date the demand is served.

331 (13) Except as provided by court order, a person who has been served with a civil
332 investigative demand shall comply with the terms of the demand.

333 (14) (a) A person who has committed a violation of this chapter in relation to the
334 Medicaid program in this state, or to any other medical benefit program administered by the
335 state has submitted to the jurisdiction of this state.

336 (b) Personal service of a civil investigative demand under this section may be made on
337 the person described in Subsection (14)(a) outside of this state.

338 (15) This section does not limit the authority of the attorney general to conduct
339 investigations or to access a person's documentary materials or other information under another
340 state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

341 (16) The attorney general may file a complaint in district court for an order to enforce
342 the civil investigative demand if:

343 (a) a person fails to comply with a civil investigative demand; or

344 (b) copying and reproduction of the documentary material demanded:

345 (i) cannot be satisfactorily accomplished; and

346 (ii) the person refuses to surrender the documentary material.

347 (17) If a complaint is filed under Subsection (16), the court may determine the matter
348 presented and may enter an order to enforce the civil investigative demand.

349 (18) Failure to comply with a final order entered under Subsection (17) is punishable
350 by contempt.

351 Section 11. Section **26-20-15** is enacted to read:

352 **26-20-15. Limitation of actions -- Civil acts antedating this section -- Civil burden**
353 **of proof -- Estoppel -- Joint civil liability -- Venue.**

354 (1) An action under this chapter may not be brought after the later of:

355 (a) six years after the date on which the violation was committed; or

356 (b) three years after the date an official of the state charged with responsibility to act in
357 the circumstances discovers the violation, but in no event more than ten years after the date on
358 which the violation was committed.

359 (2) A civil action brought under this chapter may be brought for acts occurring prior to
360 the effective date of this section if the limitations period set forth in Subsection (1) has not
361 lapsed.

362 (3) In any civil action brought under this chapter the state shall be required to prove by
363 a preponderance of evidence, all essential elements of the cause of action including damages.

364 (4) Notwithstanding any other provision of law, a final judgment rendered in favor of
365 the state in any criminal proceeding under this chapter, whether upon a verdict after trial or
366 upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential

367 elements of the offense in any civil action under this chapter which involves the same
368 transaction.

369 (5) Civil liability under this chapter shall be joint and several for a violation committed
370 by two or more persons.

371 (6) Any action brought by the state under this chapter shall be brought in district court
372 in Salt Lake County or in any county where the defendant resides or does business.

373 Section 12. Section **67-5-1** is amended to read:

374 **67-5-1. General duties.**

375 The attorney general shall:

376 (1) perform all duties in a manner consistent with the attorney-client relationship under
377 Section 67-5-17;

378 (2) except as provided in Sections 10-3-928 and 17-18-1, attend the Supreme Court
379 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
380 defend all causes to which the state, or any officer, board, or commission of the state in an
381 official capacity is a party; and take charge, as attorney, of all civil legal matters in which the
382 state is interested;

383 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
384 process as necessary to execute the judgment;

385 (4) account for, and pay over to the proper officer, all moneys that come into the
386 attorney general's possession that belong to the state;

387 (5) keep a file of all cases in which the attorney general is required to appear, including
388 any documents and papers showing the court in which the cases have been instituted and tried,
389 and whether they are civil or criminal, and:

390 (a) if civil, the nature of the demand, the stage of proceedings, and when prosecuted to
391 judgment, a memorandum of the judgment and of any process issued whether satisfied, and if
392 not satisfied, the return of the sheriff;

393 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
394 proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the
395 execution, if the sentence has been executed, if not executed, of the reason of the delay or
396 prevention; and

397 (c) deliver this information to the attorney general's successor in office;

398 (6) exercise supervisory powers over the district and county attorneys of the state in all
399 matters pertaining to the duties of their offices, and from time to time require of them reports of
400 the condition of public business entrusted to their charge;

401 (7) give the attorney general's opinion in writing and without fee to the Legislature or
402 either house, and to any state officer, board, or commission, and to any county attorney or
403 district attorney, when required, upon any question of law relating to their respective offices;

404 (8) when required by the public service or directed by the governor, assist any county,
405 district, or city attorney in the discharge of his duties;

406 (9) purchase in the name of the state, under the direction of the state Board of
407 Examiners, any property offered for sale under execution issued upon judgments in favor of or
408 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
409 consideration of the purchases;

410 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
411 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
412 taking precedence of the judgment in favor of the state, redeem the property, under the
413 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
414 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
415 out of any money appropriated for these purposes;

416 (11) when in his opinion it is necessary for the collection or enforcement of any
417 judgment, institute and prosecute on behalf of the state any action or proceeding necessary to
418 set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the
419 cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any
420 money not otherwise appropriated;

421 (12) discharge the duties of a member of all official boards of which the attorney
422 general is or may be made a member by the Utah Constitution or by the laws of the state, and
423 other duties prescribed by law;

424 (13) institute and prosecute proper proceedings in any court of the state or of the
425 United States, to restrain and enjoin corporations organized under the laws of this or any other
426 state or territory from acting illegally or in excess of their corporate powers or contrary to
427 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
428 and wind up their affairs;

429 (14) institute investigations for the recovery of all real or personal property that may
430 have escheated or should escheat to the state, and for that purpose, subpoena any persons
431 before any of the district courts to answer inquiries and render accounts concerning any
432 property, examine all books and papers of any corporations, and when any real or personal
433 property is discovered that should escheat to the state, institute suit in the district court of the
434 county where the property is situated for its recovery, and escheat that property to the state;

435 (15) administer the Children's Justice Center as a program to be implemented in
436 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

437 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4,
438 Constitutional Defense Council;

439 (17) pursue any appropriate legal action to implement the state's public lands policy
440 established in Subsection 63C-4-105(1);

441 (18) investigate and prosecute ~~[criminal]~~ violations of all applicable state laws relating
442 to fraud in connection with the state Medicaid program and any other medical assistance
443 program administered by the state, including violations of Title 26, Chapter 20, False Claims
444 Act~~[- in accordance with Section 26-20-13];~~

445 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
446 at:

447 (a) health care facilities that receive payments under the state Medicaid program; and

448 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
449 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

450 (20) (a) report at least twice per year to the Legislative Management Committee on any
451 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

452 (i) cost the state more than \$500,000; or

453 (ii) require the state to take legally binding action that would cost more than \$500,000
454 to implement; and

455 (b) if the meeting is closed, include an estimate of the state's potential financial or other
456 legal exposure in that report.

H.B. 242 1st Sub. (Buff) - Medicaid False Claims Act Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
