
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1027 Session of
2017

INTRODUCED BY NEUMAN, SNYDER, CUTLER, JAMES, W. KELLER,
CALTAGIRONE, SOLOMON, GROVE, NEILSON AND SAYLOR,
MARCH 30, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 30, 2017

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for liability
4 for false claims, for adoption of congressional intent of the
5 Federal False Claims Act, for treble damages, costs and civil
6 penalties, for powers of Attorney General and for qui tam
7 actions; and establishing the Fraud Prevention and Recovery
8 Account.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
12 as the Human Services Code, is amended by adding an article to
13 read:

14 ARTICLE XIV-D

15 LIABILITY FOR FALSE CLAIMS

16 (a) Preliminary Provisions

17 Section 1401-D. Short title.

18 This article shall be known and may be cited as the Taxpayer
19 Prevention Against Fraud Act.

20 Section 1402-D. Declaration of policy.

1 The General Assembly declares that this article adopts the
2 intent of Congress in enacting the Federal False Claims Act
3 (Public Law 97-258, 31 U.S.C. §§ 3729-3733) on September 13,
4 1982, including the amendments enacted October 27, 1986 (Public
5 Law 99-562, 100 Stat. 3153), and all subsequent amendments.
6 Section 1403-D. Definitions.

7 The following words and phrases when used in this article
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Account." The Fraud Prevention and Recovery Account
11 established in section 1414-D.

12 "Claim." As follows:

13 (1) A request or demand for money or property, whether
14 under contract or otherwise and regardless of whether the
15 Commonwealth has title to the money or property, which meets
16 any of the following:

17 (i) Is presented to an employee, officer or agent of
18 the Commonwealth.

19 (ii) Is made to a contractor, grantee or other
20 recipient, and any portion of the money or property will
21 be spent or used on the Commonwealth's behalf or to
22 advance a program or interest of the Commonwealth, and
23 the Commonwealth:

24 (A) provides or has provided any portion of the
25 money or property requested or demanded; or

26 (B) will reimburse the contractor, grantee or
27 other recipient for any portion of the money or
28 property which is requested or demanded.

29 (2) The term does not include requests or demands for
30 money or property that the Commonwealth has paid to an

1 individual as compensation for employment or as an income
2 subsidy with no restrictions on the individual's use of the
3 money or property.

4 (3) To the extent it is not connected to a request or
5 demand for money or property, a filing with a Commonwealth
6 agency pursuant to the Commonwealth's insurance laws shall
7 not constitute a claim.

8 "Knowingly." As follows:

9 (1) Whenever a person, with respect to information, does
10 any of the following:

11 (i) Has actual knowledge of the information.

12 (ii) Acts in deliberate ignorance of the truth or
13 falsity of the information.

14 (iii) Acts in reckless disregard of the truth or
15 falsity of the information.

16 (2) Proof of specific intent to defraud is not required.

17 "Material." A natural tendency to influence, or be capable
18 of influencing, the payment or receipt of money or property.

19 "Obligation." An established duty, whether or not fixed,
20 arising from any of the following:

21 (1) An express or implied contractual relationship.

22 (2) An express or implied grantor-grantee relationship.

23 (3) An express or implied licensor-licensee
24 relationship.

25 (4) A fee-based or similar relationship.

26 (5) A statute or regulation.

27 (6) The retention of an overpayment.

28 "Official use." A use that is consistent with the law and
29 the regulations and policies of the Office of Attorney General,
30 including the following:

1 (1) Use in connection with internal memoranda and
2 reports.

3 (2) Communications between the Office of Attorney
4 General and a Federal, State or local government agency or a
5 contractor of a Federal, State or local government agency,
6 undertaken in furtherance of an investigation or prosecution
7 of an action.

8 (3) Interviews of a qui tam plaintiff or other witness.

9 (4) Oral examinations.

10 (5) Depositions.

11 (6) Preparation for and response to civil discovery
12 requests.

13 (7) Introduction into the record of an action or
14 proceeding.

15 (8) Applications, motions, memoranda and briefs
16 submitted to a court or other tribunal.

17 (9) Communications with investigators, auditors,
18 consultants and experts, the counsel of other parties,
19 arbitrators and mediators, concerning an investigation,
20 action or proceeding.

21 "Original source." An individual who:

22 (1) prior to a public disclosure under section 1412-D(f)
23 (2), has voluntarily disclosed to the Commonwealth the
24 information on which the allegations or transactions in a
25 claim are based; or

26 (2) has knowledge that is independent of and materially
27 adds to the publicly disclosed allegations or transactions
28 and who has voluntarily provided the information to the
29 Commonwealth before filing an action under section 1412-D.

30 "Person." A natural person, corporation, firm, association,

1 organization, partnership, business or trust.

2 "Qui tam plaintiff." A person bringing a civil action under
3 section 1412-D.

4 (b) False Claims

5 Section 1411-D. Acts subjecting persons to liability and
6 damages.

7 (a) Liability.--A person who commits an act prohibited in
8 subsection (b) shall be liable to the Commonwealth for three
9 times the amount of damages which the Commonwealth sustains
10 because of the act of that person.

11 (b) Prohibited acts.--A person who commits any of the
12 following acts shall also be liable to the Commonwealth for a
13 civil penalty of not less than \$5,500 and not more than \$11,000
14 for each violation:

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

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

20 (3) Has possession, custody or control of property or
21 money used or to be used by the Commonwealth and knowingly
22 delivers or causes to be delivered less than all of the money
23 or property.

24 (4) Is authorized to make or deliver a document
25 certifying receipt of property used or to be used by the
26 Commonwealth and, intending to defraud the Commonwealth,
27 makes or delivers a receipt without completely knowing that
28 the information on the receipt is true.

29 (5) Knowingly buys or receives as a pledge of an
30 obligation or debt, public property from an officer or

1 employee of the Commonwealth who lawfully may not sell or
2 pledge the property.

3 (6) Knowingly makes, uses or causes to be made or used,
4 a false record or statement material to an obligation to pay
5 or transmit money or property to the Commonwealth or
6 knowingly conceals, or knowingly and improperly avoids or
7 decreases an obligation to pay or transmit money or property
8 to the Commonwealth.

9 (7) Knowingly fails to disclose a fact, event or
10 occurrence material to an obligation to pay or transmit money
11 or property to the Commonwealth.

12 (8) Is a beneficiary of an inadvertent submission of a
13 false claim, subsequently discovers the falsity of the claim
14 and fails to disclose the false claim to the Commonwealth
15 within a reasonable time after discovery of the false claim.

16 (9) Conspires to commit a violation of paragraph (1),
17 (2), (3), (4), (5), (6), (7) or (8).

18 (c) Damages limitation.--Notwithstanding subsection (a), the
19 court may assess not less than two times the amount of damages
20 which the Commonwealth sustains because of the act of the person
21 if the court finds all of the following:

22 (1) The person committing the violation furnished the
23 Commonwealth officials who are responsible for investigating
24 false claims violations with all information known to that
25 person about the violation within 30 days after the date on
26 which the person first obtained the information.

27 (2) The person fully cooperated with an investigation by
28 the Commonwealth.

29 (3) At the time the person furnished the Commonwealth
30 with information about the violation, no criminal

1 prosecution, civil action or administrative action had
2 commenced with respect to the violation, and the person did
3 not have actual knowledge of the existence of an
4 investigation into the violation.

5 (d) Exclusion.--This section does not apply to claims,
6 records or statements made under the act of March 4, 1971
7 (P.L.6, No.2), known as the Tax Reform Code of 1971.

8 (e) Actions to recover damages and adjustment of
9 penalties.--A person who is liable for damages or penalties
10 under subsection (a) or (b) shall also be liable to the
11 Commonwealth for the reasonable costs of a civil action,
12 including reasonable costs to the Office of Attorney General,
13 brought to recover any of those damages or penalties.

14 (f) Adjustments.--The civil penalties payable under
15 subsection (b) shall be adjusted from time to time as provided
16 in the Federal Civil Penalties Inflation Adjustment Act of 1990
17 (Public Law 101-410, 28 U.S.C. § 2461 note).

18 (g) Exemption from disclosure.--Information furnished under
19 subsection (c) shall be exempt from disclosure under the act of
20 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
21 Section 1412-D. Attorney General investigations and
22 prosecutions and civil actions.

23 (a) Responsibilities of Attorney General.--The Attorney
24 General shall investigate a violation of section 1411-D. If the
25 Attorney General finds that a person has violated or is
26 violating section 1411-D, the Attorney General may bring a civil
27 action in Commonwealth Court under this section against that
28 person.

29 (b) Actions by qui tam plaintiffs.--

30 (1) A qui tam plaintiff may bring a civil action in

1 Commonwealth Court for a violation of section 1411-D for the
2 qui tam plaintiff and for the Commonwealth in the name of the
3 Commonwealth. Once filed, the action may be dismissed only if
4 the court and the Attorney General give written consent to
5 the dismissal and their reasons for consenting.

6 (2) A copy of the complaint and written disclosure of
7 substantially all material evidence and information the qui
8 tam plaintiff possesses shall be served on the Attorney
9 General. The complaint shall be filed in camera and shall
10 remain under seal for at least 60 days and shall not be
11 served on the defendant until the court orders the service.
12 The Commonwealth may elect to intervene and proceed with the
13 action within 60 days after it receives the complaint and the
14 material evidence and information.

15 (3) The Commonwealth may, for good cause shown, move the
16 court for extensions of the time during which the complaint
17 remains under seal under paragraph (2). The motions may be
18 supported by affidavits or other submissions in camera. The
19 defendant shall not be required to respond to a complaint
20 filed under this section until the complaint is unsealed and
21 served upon the defendant under the Pennsylvania Rules of
22 Civil Procedure.

23 (4) Before the expiration of the 60-day period or any
24 extensions obtained under paragraph (3), the Commonwealth
25 shall:

26 (i) proceed with the action, in which case the
27 action shall be conducted by the Commonwealth; or

28 (ii) notify the court that the Commonwealth declines
29 to take over the action, in which case the qui tam
30 plaintiff shall have the right to conduct the action.

1 (c) Intervention.--When a qui tam plaintiff brings an action
2 under subsection (b), no person other than the Commonwealth may
3 intervene or bring a related action based on the facts
4 underlying the pending action.

5 (d) Rights of the parties to qui tam actions.--

6 (1) If the Commonwealth proceeds with the action, it
7 shall have the primary responsibility for prosecuting the
8 action and shall not be bound by an act of the qui tam
9 plaintiff. The qui tam plaintiff shall have the right to
10 continue as a party to the action, subject to the limitations
11 set forth in paragraph (2).

12 (2) (i) The Commonwealth may move to dismiss the action
13 for good cause despite the objections of the qui tam
14 plaintiff if the qui tam plaintiff has been notified by
15 the Commonwealth of the filing of the motion and the
16 court has provided the qui tam plaintiff with an
17 opportunity to oppose the motion and present evidence at
18 a hearing.

19 (ii) The Commonwealth may settle the action with the
20 defendant despite the objections of the qui tam plaintiff
21 if the court determines, after a hearing providing the
22 qui tam plaintiff an opportunity to present evidence,
23 that the proposed settlement is fair, adequate and
24 reasonable under the circumstances. Upon a showing of
25 good cause, the hearing may be held in camera.

26 (iii) Upon a showing by the Commonwealth that
27 unrestricted participation during the course of the
28 action by the qui tam plaintiff would interfere with or
29 unduly delay the Commonwealth's prosecution of the case
30 or would be repetitious, irrelevant or for purposes of

1 harassment, the court may, in its discretion, impose
2 limitations on the qui tam plaintiff's participation by:

3 (A) limiting the number of witnesses the qui tam
4 plaintiff may call;

5 (B) limiting the length of the testimony of the
6 witnesses;

7 (C) limiting the qui tam plaintiff's cross-
8 examination of witnesses; or

9 (D) otherwise limiting the participation by the
10 qui tam plaintiff in the action.

11 (iv) Upon a showing by the defendant that
12 unrestricted participation during the action by the qui
13 tam plaintiff would be for purposes of harassment or
14 would cause the defendant undue burden or unnecessary
15 expense, the court may limit the participation by the qui
16 tam plaintiff in the action.

17 (3) If the Commonwealth elects not to proceed with the
18 action, the qui tam plaintiff shall have the right to conduct
19 the action. If the Commonwealth requests, it shall be served
20 with copies of all pleadings filed in the action and shall be
21 supplied with copies of all deposition transcripts at the
22 Commonwealth's expense. The court, without limiting the
23 status and rights of the qui tam plaintiff, may permit the
24 Commonwealth to intervene at a later date upon a showing of
25 good cause.

26 (4) Whether or not the Commonwealth proceeds with the
27 action, upon a showing by the Commonwealth that certain
28 actions of discovery by the qui tam plaintiff would interfere
29 with the Commonwealth's investigation or prosecution of a
30 criminal or civil matter arising out of the same facts, the

1 court may stay the discovery for a period of not more than 60
2 days. The showing shall be conducted in camera. The court may
3 extend the 60-day period upon a further showing in camera
4 that the Commonwealth has pursued the criminal or civil
5 investigation or proceedings with reasonable diligence and
6 that the discovery proposed in the civil action will
7 interfere with the ongoing criminal or civil investigations
8 or proceedings.

9 (5) Notwithstanding subsection (b), the Commonwealth may
10 elect to pursue its claim through an alternate remedy
11 available to the Commonwealth, including an administrative
12 proceeding to determine a civil money penalty. If the
13 alternate remedy is pursued in another proceeding, the qui
14 tam plaintiff shall have the same rights in the proceeding as
15 if the action had continued under this section. A finding of
16 fact or conclusion of law made in the other proceeding that
17 has become final shall be conclusive on all parties to an
18 action under this section. A finding or conclusion is final
19 if it has been finally determined on appeal to the
20 appropriate court of the Commonwealth, if the time for filing
21 the appeal regarding the finding or conclusion has expired
22 without an appeal having been filed or if the finding or
23 conclusion is not subject to judicial review.

24 (e) Award to qui tam plaintiff.--

25 (1) If the Commonwealth proceeds with an action brought
26 by a qui tam plaintiff, the qui tam plaintiff shall, subject
27 to the provisions of this paragraph, receive at least 15% but
28 not more than 25% of the proceeds of the action or settlement
29 of the claim, depending upon the extent to which either or
30 both the qui tam plaintiff and counsel for the qui tam

1 plaintiff substantially contributed to the prosecution of the
2 action. Where the court finds that the action is based
3 primarily on disclosures of specific information, other than
4 information provided by the qui tam plaintiff, relating to
5 allegations or transactions in a criminal, civil or
6 administrative hearing or in a legislative or administrative
7 report, hearing, audit or investigation or from the news
8 media, the court may award a sum it considers appropriate,
9 but in no case more than 10% of the proceeds, taking into
10 account the significance of the information and the role of
11 the qui tam plaintiff in advancing the action. A payment to a
12 qui tam plaintiff under the first or second sentence of this
13 paragraph shall be made from the proceeds. The qui tam
14 plaintiff shall also receive an amount for reasonable
15 expenses which the court finds were necessarily incurred,
16 plus reasonable attorney fees and costs. The expenses, fees
17 and costs shall be awarded against the defendant.

18 (2) If the Commonwealth does not proceed with an action
19 under this section, the qui tam plaintiff shall receive at
20 least 25% but not more than 30% of the proceeds of the action
21 or settlement of the claim, as the court deems reasonable.
22 The amount shall be paid from the proceeds. The qui tam
23 plaintiff shall also receive an amount for reasonable
24 expenses which the court finds to have been necessarily
25 incurred, plus reasonable attorney fees and costs. The
26 expenses, fees and costs shall be awarded against the
27 defendant.

28 (3) Whether or not the Commonwealth proceeds with the
29 action, if the court finds the qui tam plaintiff planned and
30 initiated the violation of section 1411-D upon which the

1 action was filed, then the court may, to the extent the court
2 considers appropriate, reduce the share of the proceeds of
3 the action which the qui tam plaintiff would otherwise
4 receive under paragraph (1) or (2), taking into account the
5 role of the qui tam plaintiff in advancing the action and any
6 relevant circumstances pertaining to the violation. If the
7 qui tam plaintiff is convicted of criminal conduct arising
8 from the qui tam plaintiff's role in the violation, the qui
9 tam plaintiff shall be dismissed from the civil action and
10 shall not receive a share of the proceeds of the action. The
11 dismissal shall not prejudice the right of the Commonwealth
12 to continue the action.

13 (4) If the Commonwealth does not proceed with the action
14 and the qui tam plaintiff conducts the action, the court may
15 award to the defendant reasonable attorney fees and expenses
16 if the defendant prevails in the action and the court finds
17 the claim of the qui tam plaintiff was clearly frivolous,
18 clearly vexatious or brought primarily for purposes of
19 harassment.

20 (f) Limitations on actions.--

21 (1) A court does not have jurisdiction over an action
22 filed under this section against the Governor, the Lieutenant
23 Governor, a cabinet member, a deputy secretary, a member of
24 the General Assembly or a member of the judiciary if the
25 action is based on evidence or information known to the
26 Commonwealth when the action was brought.

27 (2) Subject to the provisions of paragraph (3), the
28 court shall dismiss an action or claim brought under
29 subsection (b) if substantially the same allegations or
30 transactions alleged in the action or claim were publicly

1 disclosed in:

2 (i) the news media;

3 (ii) a criminal, civil or administrative hearing in
4 which the Commonwealth is or was a party; or

5 (iii) a State legislative or other State report,
6 hearing, audit or investigation.

7 (3) The court may not dismiss an action under paragraph

8 (2) if:

9 (i) the action was brought by the Attorney General;

10 (ii) the dismissal is opposed by the Attorney
11 General; or

12 (iii) the qui tam plaintiff is the original source
13 of the information.

14 (4) In no event may a person bring an action under this
15 section which is based upon allegations or transactions which
16 are the subject of a civil suit or an administrative civil
17 money penalty proceeding in which the Commonwealth is already
18 a party.

19 (g) Commonwealth not liable for certain expenses.--The
20 Commonwealth is not liable for expenses which a qui tam
21 plaintiff incurs in bringing an action under this section.

22 (h) (Reserved).

23 (i) Civil investigative demand.--

24 (1) (i) The Attorney General shall have the authority
25 to issue civil investigative demands under paragraph (2).

26 (ii) Nothing in this subsection shall be construed
27 to limit the regulatory or investigative authority of a
28 department or agency of the Commonwealth whose functions
29 may relate to persons, enterprises or matters falling
30 within the scope of this subarticle.

1 (2) (i) Whenever the Attorney General has reason to
2 believe that a person may be in possession, custody or
3 control of documentary material relevant to an
4 investigation under this subarticle, the Attorney General
5 may issue in writing, and cause to be served upon the
6 person, a civil investigative demand requiring the
7 production of the material for examination.

8 (ii) Each demand shall:

9 (A) state the nature of the conduct constituting
10 the alleged violation which is under investigation,
11 the applicable provision of law and the connection
12 between the documentary material demanded and the
13 conduct under investigation;

14 (B) describe the class or classes of documentary
15 material to be produced with sufficient definiteness
16 and certainty to permit the material to be fairly
17 identified;

18 (C) state that the demand is returnable or
19 prescribe a return date which will provide a
20 reasonable time period within which the material
21 demanded may be assembled and made available for
22 inspection and copying or reproduction;

23 (D) identify an investigator to whom the
24 material shall be made available; and

25 (E) contain the following statement printed
26 conspicuously at the top of the demand:

27 "You have the right to seek the assistance of an
28 attorney, who may represent you in all phases of the
29 investigation of which this civil investigative
30 demand is a part."

1 (iii) The demand shall not:

2 (A) contain a requirement which would be held to
3 be unreasonable if contained in a subpoena duces
4 tecum issued by a court in connection with a grand
5 jury investigation of such alleged violation; or

6 (B) require the production of documentary
7 evidence which would be privileged from disclosure if
8 demanded by a subpoena duces tecum issued by a court
9 in connection with a grand jury investigation of the
10 alleged violation.

11 (iv) Service of a demand or a petition filed under
12 this paragraph shall be made in the manner prescribed by
13 the Pennsylvania Rules of Civil Procedure for service of
14 writs and complaints.

15 (v) A verified return by the individual serving a
16 demand or petition setting forth the manner of service
17 shall be prima facie proof of the service. In the case of
18 a service by registered or certified mail, the return
19 shall be accompanied by the return post office receipt of
20 delivery of the demand.

21 (vi) (A) A person upon whom a demand issued under
22 this subsection has been duly served shall make the
23 material available for inspection and copying or
24 reproduction to the investigator designated at the
25 principal place of business of the person, or at
26 another place as the investigator and person may
27 agree or as the court may direct under this
28 paragraph, on the return date specified in the
29 demand. The person may, upon agreement of the
30 investigator, substitute copies of all or a part of

1 the material for the originals.

2 (B) The investigator to whom documentary
3 material is delivered shall take physical possession
4 of the material and shall be responsible for the use
5 for which the material is made and for the material's
6 return under this paragraph. The investigator may
7 cause the preparation of copies of the documentary
8 material as may be required for official use. While
9 in the possession of the investigator, no material
10 produced shall be available for examination by an
11 individual other than the Attorney General or
12 investigator without the consent of the person who
13 produced the material. Under reasonable terms and
14 conditions as the Attorney General shall prescribe,
15 documentary material, while in the possession of the
16 investigator, shall be available for examination by
17 the person who produced the material or a duly
18 authorized representative of the person.

19 (C) Upon completion of the investigation for
20 which documentary material was produced under this
21 paragraph and a case or proceeding arising from the
22 investigation, the investigator shall return to the
23 person who produced the material all of the material
24 other than copies made under this paragraph which
25 have not passed into the control of a court or grand
26 jury through introduction into the record of the case
27 or proceeding.

28 (D) When documentary material has been produced
29 by a person under this paragraph for use in an
30 investigation and no case or proceeding arising from

1 the material has been instituted within a reasonable
2 time after completion of the examination and analysis
3 of all evidence assembled in the course of the
4 investigation, the person shall be entitled, upon
5 written demand made upon the Attorney General, to the
6 return of all documentary material, other than copies
7 made under this paragraph, produced by the person.

8 (vii) Whenever a person fails to comply with a civil
9 investigative demand duly served upon the person under
10 this paragraph, or whenever satisfactory copying or
11 reproduction of the material cannot be done and the
12 person refuses to surrender the material, the Attorney
13 General may file in Commonwealth Court and serve upon the
14 person a petition for an order of the court for the
15 enforcement of this paragraph.

16 (viii) Within 20 days after the service of the
17 demand upon a person, or at any time before the return
18 date specified in the demand, whichever period is
19 shorter, the person may file in Commonwealth Court and
20 serve upon the Attorney General a petition for an order
21 of the court modifying or setting aside the demand. The
22 time allowed for compliance with the demand, in whole or
23 in part, as deemed proper and ordered by the court, shall
24 not run during the pendency of the petition in the court.
25 The petition shall specify each ground upon which the
26 petitioner relies in seeking the relief, and may be based
27 upon a failure of the demand to comply with the
28 provisions of this paragraph or upon a constitutional or
29 other legal right or privilege of the person.

30 (ix) When the Attorney General is in custody or

1 control of documentary material delivered by a person in
2 compliance with a demand, the person may file in
3 Commonwealth Court and serve upon the Attorney General a
4 petition for an order of the court requiring the
5 performance of a duty imposed by this paragraph.

6 (x) Whenever a petition is filed under this
7 paragraph, the court shall have jurisdiction to hear and
8 determine the matter so presented and, after a hearing at
9 which all parties are represented, to enter an order as
10 may be required to carry into effect the provisions of
11 this paragraph.

12 (3) Whenever an individual refuses, on the basis of the
13 individual's Fifth Amendment privilege against self-
14 incrimination, to comply with a civil investigative demand
15 issued under paragraph (2), the Attorney General may invoke
16 the provisions of 42 Pa.C.S. § 5947 (relating to immunity of
17 witnesses).

18 (4) If a civil investigative demand is an express demand
19 for the production of discovery, the Attorney General shall
20 cause to be served, in a manner authorized under this
21 subsection, a copy of the demand upon the person from whom
22 the discovery was obtained and shall notify the person to
23 whom the demand is issued of the date on which the copy was
24 served. Information obtained by the Attorney General under
25 this subsection may be shared with a qui tam plaintiff if the
26 Attorney General determines it is necessary as part of an
27 investigation of a claim.

28 (j) Cooperation by agencies.--Commonwealth agencies shall
29 cooperate in the investigation and prosecution of false claims
30 under this section, whether the claims are brought by the

1 Attorney General or a qui tam plaintiff.

2 Section 1413-D. Deposit of Commonwealth proceeds.

3 The Commonwealth's share of the proceeds of an action under
4 this article, not including the costs of a civil action paid to
5 the Commonwealth under section 1411-D(e) and less any amount
6 legally required to be paid from the share, shall be deposited
7 as follows:

8 (1) If the violation of section 1411-D was pursuant to a
9 claim that was paid from or related to a fund or account
10 other than the General Fund, then the Commonwealth's share of
11 the proceeds shall be deposited into that fund or account.

12 (2) If the violation of section 1411-D was pursuant to a
13 claim that was paid from or related to the General Fund, then
14 the Commonwealth's share of the proceeds shall be deposited
15 into the Fraud Prevention and Recovery Account.

16 (3) If the violation of section 1411-D was pursuant to a
17 claim that was paid from or related to more than one fund or
18 account, then the Commonwealth's share of the proceeds shall
19 be deposited into the funds or accounts on a pro rata basis
20 in accordance with paragraphs (1) and (2).

21 Section 1414-D. Fraud Prevention and Recovery Account.

22 A restricted account is established within the General Fund
23 to be known as the Fraud Prevention and Recovery Account. The
24 money in the account shall not lapse. Money in the account may
25 only be used as appropriated by the General Assembly.

26 Section 1415-D. Annual report.

27 (a) Report required.--The Attorney General shall prepare an
28 annual report concerning actions taken under this article by
29 December 31 each year, beginning December 31, 2017. The report
30 shall be submitted to the following:

1 (1) The Governor.

2 (2) The chairman and minority chairman of the Judiciary
3 Committee of the Senate.

4 (3) The chairman and minority chairman of the Judiciary
5 Committee of the House of Representatives.

6 (4) The chairman and minority chairman of the
7 Appropriations Committee of the Senate.

8 (5) The chairman and minority chairman of the
9 Appropriations Committee of the House of Representatives.

10 (b) Contents.--The report shall include the following:

11 (1) The number of actions filed by the Attorney General.

12 (2) The number of actions filed by the Attorney General
13 that were completed.

14 (3) The amount that was recovered in actions filed by
15 the Attorney General through settlement or through a judgment
16 and, if known, the amount recovered for damages, penalties
17 and litigation costs.

18 (4) The number of actions filed by a person other than
19 the Attorney General.

20 (5) The number of actions filed by a person other than
21 the Attorney General that were completed.

22 (6) The amount that was recovered in actions filed by a
23 person other than the Attorney General through settlement or
24 through a judgment and, if known, the amount recovered for
25 damages, penalties and litigation costs and the amount
26 recovered by the Commonwealth and the person.

27 (7) The amount expended by the Commonwealth for
28 investigation, litigation and all other costs for claims
29 under this article.

30 (8) A narrative describing the most notable or prevalent

1 violations of section 1411-D and recommendations on how
2 Commonwealth agencies may prevent similar violations from
3 occurring.

4 (9) Legislative recommendations the Attorney General may
5 have for amendments to this article.

6 Section 1416-D. Statute of limitations; burden of proof;
7 estoppel.

8 (a) Statute of limitations.--

9 (1) A civil action under section 1412-D may not be
10 brought more than 10 years after the date on which the
11 violation was committed.

12 (2) (i) If the Commonwealth elects to intervene and
13 proceed with an action brought under section 1412-D(b),
14 the Commonwealth may file its own complaint or amend the
15 complaint of the qui tam plaintiff who brought the action
16 in order to clarify or add detail to the claims and to
17 add any additional claims with respect to which the
18 Commonwealth contends it is entitled to relief.

19 (ii) If the Commonwealth makes an election under
20 subparagraph (i), a Commonwealth pleading shall relate
21 back to the filing date of the complaint of the qui tam
22 plaintiff to the extent that the claim of the
23 Commonwealth arises out of the conduct, transactions or
24 occurrences set forth, or attempted to be set forth, in
25 the qui tam plaintiff's complaint.

26 (b) Burden of proof.--In an action brought under section
27 1412-D, the Commonwealth or the qui tam plaintiff shall be
28 required to prove all essential elements of the cause of action,
29 including damages, by a preponderance of the evidence.

30 (c) Estoppel.--Notwithstanding any other provision of law, a

1 final judgment rendered in favor of the Commonwealth in a
2 criminal proceeding charging false statements or fraud, whether
3 upon a verdict after trial or upon a plea of guilty or nolo
4 contendere, shall estop the defendant from denying the essential
5 elements of the offense in an action which involves the same
6 transaction as in the criminal proceeding and which is brought
7 under section 1412-D(a) or (b).

8 Section 1417-D. Relief from retaliatory actions.

9 (a) General rule.--An employee, contractor or agent shall be
10 entitled to all relief necessary to make that employee,
11 contractor or agent whole, if that employee, contractor or agent
12 is discharged, demoted, suspended, threatened, harassed or in
13 any other manner discriminated against in the terms and
14 conditions of employment, contract or agency because of lawful
15 acts done by the employee, contractor, agent or associated
16 others in furtherance of an action under this article or other
17 efforts to stop one or more violations of this article.

18 (b) Relief.--Relief under subsection (a) shall include
19 reinstatement with the same seniority status that the employee,
20 contractor or agent would have had but for the discrimination,
21 two times the amount of back pay, interest on the back pay and
22 compensation for special damages sustained as a result of the
23 discrimination, including litigation costs and reasonable
24 attorney fees.

25 (c) Exclusive jurisdiction.--The Commonwealth Court shall
26 have exclusive jurisdiction for all actions seeking relief under
27 this section.

28 (d) Limitation.--An action under this section may not be
29 brought more than three years after the date when the
30 retaliation occurred.

1 Section 1418-D. Remedies under other laws.

2 The provisions of this article are not exclusive, and the
3 remedies provided for in this article shall be in addition to
4 any other remedies provided for in any other law or available
5 under common law.

6 Section 1419-D. Qualification of act for increased share of
7 recoveries.

8 (a) Submission.--Within 30 days of the effective date of
9 this article, the Attorney General shall submit a copy of this
10 article and any other relevant information to the Office of
11 Inspector General, United States Department of Health and Human
12 Services and request a determination that this article meets the
13 requirements of section 1909(b) of the Social Security Act (49
14 Stat. 620, 42 U.S.C. § 1396h(b)), in order to qualify the
15 Commonwealth for an increased share of amounts recovered under
16 this article with respect to false or fraudulent claims
17 submitted to the medical assistance program.

18 (b) Review and recommendations.--If the Office of Inspector
19 General, United States Department of Health and Human Services
20 determines that this article does not meet the requirements of
21 section 1909(b) of the Social Security Act, the Attorney General
22 shall prepare a report explaining the reasons for the denial and
23 suggested revisions to this article which would cause this
24 article to meet the requirements of section 1909(b) of the
25 Social Security Act. A copy of the report shall be transmitted
26 to the officials designated to receive the report required under
27 section 1415-D(a).

28 Section 2. This act shall take effect immediately.