House Departments & Agencies Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

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Signature of Sponsor

AMEND Senate Bill No. 2564 **House Bill No. 2376***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 3-17-113, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) The secretary may publicly or privately investigate, as the secretary of state deems necessary, any person or organization that the secretary has reason to believe has violated this chapter.

(2) The secretary may assess a civil penalty against any person, or a nonprofit organization, for a violation of this chapter or any rule or regulation adopted pursuant to this chapter. The secretary may assess the following civil penalties:

(A) For a first violation or a violation occurring more than one (1) year after a previous violation, a civil penalty not to exceed fifty dollars ($50.00);

(B) For a second violation occurring within one (1) year, a civil penalty not to exceed fifty dollars ($50.00);

(C) For a third violation occurring within one (1) year, a civil penalty not to exceed five hundred dollars ($500);

(D) For a fourth violation occurring within one (1) year, a civil penalty not to exceed five thousand dollars ($5,000); and

(E) For a fifth or subsequent violation within one (1) year, a civil penalty not to exceed fifty thousand dollars ($50,000).

(3) Any hearing on the imposition of a civil penalty pursuant to this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it.

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Signature of Sponsor

AMEND Senate Bill No. 2762 House Bill No. 1673*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-86-107(a), is amended by deleting subdivision (1) and substituting instead the following:

(1) Prior to January 1, 2022, the board of directors of the district shall create an emergency communications service designed to have the capability of direct dispatching emergency 911 calls and utilizing at least one (1) of the following three (3) methods in response to non-emergency calls:

(A) Direct dispatch method;

(B) Relay method; or

(C) Transfer method.

SECTION 2. Tennessee Code Annotated, Section 7-86-107(b), is amended by deleting the language "the right to dispatch its own services" and substituting instead the language "the right to dispatch its own non-emergency services".

SECTION 3. Tennessee Code Annotated, Section 7-86-107(f), is amended by deleting the language "911 service" and substituting instead the language "911 non-emergency service".

SECTION 4. Tennessee Code Annotated, Section 7-86-107, is further amended by adding the following as new subsections:

(g) Emergency 911 calls shall be dispatched by the initial public service answering point without being transferred.

(h) Non-emergency calls can be transferred at the discretion of the dispatcher via attended transfer. As used in this subsection (h), "attended transfer" means the

transfer of a telephone call received by a dispatcher where, before actually transferring the call to the end destination or third party for further assistance, the call is not put on hold and another call is initiated by the dispatcher to confirm that the end destination or third party is prepared to take the call so that the two (2) calls can be merged together.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

House Departments & Agencies Subcommittee Am. #1

Amendment No._____

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Signature of Sponsor

AMEND Senate Bill No. 1300 House Bill No. 1172*

by deleting all language after the caption and substituting instead the following:

WHEREAS, disability fraud can involve malingering, filing multiple applications, concealing work or other activities, and exaggerating or lying about disabilities, costing the State of Tennessee millions of dollars every year; and

WHEREAS, the United States Social Security Administration (SSA) - Office of Inspector General (OIG), Cooperative Disability Investigations (CDI) program's primary mission is to obtain evidence that can resolve questions of fraud before benefits are ever paid; and

WHEREAS, SSA and OIG jointly established the CDI program in fiscal year 1998, in conjunction with state Disability and Determination Services (DDS) and state or local law enforcement agencies, to effectively pool resources and expertise and prevent fraud in SSA's disability programs; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following as a new chapter:

4-45-101.

(a)

(1) There is created a Tennessee office of cooperative disability investigation, referred to in this chapter as the "division".

(2) The division:

(A) Is administratively attached to the department of finance and administration and may employ up to five (5) staff persons;

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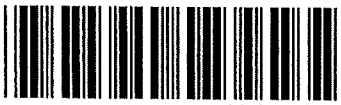
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(B) Is headed by an agency director, who also serves as a special agent for investigative purposes;

(C) Is separate and distinct from any other bureau or agency in the state, and works primarily with the United States social security administration - cooperative disability investigation unit; and

(D) Shall report quarterly to the chair of the health and welfare committee of the senate, the chair of the health committee of the house of representatives, the chair of the government operations committee of the senate, and the chair of the government operations committee of the house of representatives on the number of disability cases investigated, the results of those investigations, and any other matter the general assembly may deem relevant to the function of the division.

(b) The division is a temporary agency of state law enforcement officers, known as special agents, who shall work solely with the United States social security administration - cooperative disability investigation unit, for the purpose of saving taxpayer funds by investigating disability claims under the United States social security administration's Title II and Title XVI programs that state disability examiners believe are suspicious.

(c) The division shall enter into a memorandum of understanding with the United States social security administration specifying that all fiscal responsibilities needed to fund and operate the division, including, but not limited to, salaries, overtime, insurance benefits, retirement benefits, paid leave, operating costs, and personal duty equipment must be provided by the United States social security administration. State funds may not be used to fund or operate the division. If the United States social security administration fails to provide the funding needed to fund and operate the division at any time prior to July 1, 2023, then the division shall cease to exist.

(d) State special agents who work with the United States social security administration - cooperative disability investigation unit team shall investigate allegations of disability fraud. Upon completion of an investigation, a report detailing the investigation must be sent to the disability determination services, where disability determination services staff serves as the ultimate decision-making entity in determining whether a person is eligible to receive a monthly disability benefit payment.

4-45-102.

The division has the authority to:

(1) Investigate the allegation of disability fraud by conducting interviews of the applicant and third parties and conducting surveillance on those parties;

(2) Investigate civil and criminal fraud and abuse, and investigate any other violations of state criminal law;

(3) Cooperate with any other law enforcement agency, and where a preliminary investigation of fraud and abuse by a provider establishes a sufficient basis to warrant a full investigation, refer matters to the appropriate enforcement authority for criminal prosecution;

(4) Refer matters to the appropriate enforcement authorities for civil proceedings of funds that have been inappropriately paid by the disability program, including, but not limited to, referral to the attorney general for civil recovery; and

(5) Cooperate with other state agencies to investigate disability fraud and abuse.

4-45-103.

(a)

(1) When conducting an investigation or as part of a legal proceeding, the division has the authority to issue subpoenas to compel the attendance of witnesses to examine persons under oath, and to compel persons, firms, or

corporations to produce information, including books, accounts, papers, records, and other relevant documents.

(2) If a person, firm, or corporation fails to attend or fails to produce information as prescribed in subdivision (a)(1), then, after giving reasonable notice to the person, firm, or corporation, the division may seek judicial enforcement of the subpoena by filing, through the attorney general, a petition with the circuit or chancery court of Davidson County or of the judicial district in which the person, firm, or corporation resides. The petition must incorporate, or be accompanied by, a certification regarding the notice given and the failure of the person, firm, or corporation to attend or produce the information.

(3) Upon the filing of a petition under subdivision (a)(2) in proper form, the court shall order the person, firm, or corporation named in the petition to appear and show cause why they should not comply with the subpoena or be held in contempt for failure to comply. The court may employ all judicial power as provided by law to compel compliance with the subpoena, including those powers granted in §§ 29-9-103 - 29-9-106. The court may impose costs and sanctions against any such person, firm, or corporation, in the same manner and on the same basis as may be imposed for failure to comply with judicially issued subpoenas under the Tennessee Rules of Civil Procedure.

(4) The court may order the person, firm, or corporation to comply, and has the authority to punish the persons and entities for each day they fail to comply with an order as a separate contempt of court.

(5) The subpoena enforcement remedies set forth in this subsection (a) are cumulative, and not exclusive, of any other remedies provided by law for the enforcement of such subpoenas.

(b) The division has the authority to compel the production of current and former employment records as part of an investigation. Employment records include, but are

not limited to, employment details, wages, and insurance information of disability applicants and enrollees. Employment records must be open to inspection and be subject to being copied by a special agent at any reasonable time and as often as may be necessary. The division also has the authority to compare information reported to the United States social security administration and the bureau of TennCare by applicants or enrollees with data maintained by the credit bureaus.

(c) The complete patient record of any applicant for disability benefits must be made available to the division upon request. The record may include any services, goods, and pharmaceuticals dispensed regardless of the payment source. Records accessed during an investigation must be protected in accordance with state and federal privacy laws.

4-45-104.

(a) The staff of the division must include law enforcement officers, as defined in § 39-11-106, who shall be known as special agents and must be qualified in accordance with § 38-8-106, and must have successfully completed a training course approved by the Tennessee peace officer standards and training commission. All special agents must undergo a federal background investigation conducted by the United States social security administration - office of inspector general, who must also approve any appointment of personnel to the division.

(b) Any duly authorized special agent who has been designated by the division to enforce this chapter is authorized and empowered to go armed while on active duty engaged in enforcing this chapter. Any special agent is also considered a commissioned qualified criminal investigator for the purposes of the Law Enforcement Officers Safety Act of 2004, P.L. 108-277, and is directed, pursuant to § 39-17-1315(a)(1), to carry firearms at all times, regardless of regular duty hours or assignments. Special agents are also empowered to execute search warrants and do all

acts incident thereto in the same manner as search warrants may be executed by sheriffs and other peace officers.

(c) Special agents of the division have the authority to make arrests for any state felony or misdemeanor violations and the authority to make traffic stops in an emergency situation where the safety of the public is in jeopardy.

4-45-105.

(a) All records obtained pursuant to this chapter must be treated as confidential investigative records of the division and must not be open to public inspection.

(b) Notwithstanding any other law to the contrary, a person or entity is not subject to any civil or criminal liability for providing the division with access to data as required by this chapter.

(c) This chapter does not require any person or entity to create new records or data that did not exist at the time of the request; however, a person or entity shall not destroy existing data after having been put on notice that access to the data is required pursuant to this section.

4-45-106.

Representatives from the cooperative disability investigations program shall appear before the government operations committee of the senate and the government operations committee of the house of representatives by December 31, 2022, to report on all aspects of the division's performance.

4-45-107.

No later than January 31, 2022, the division shall submit a final report on its overall operations to the legislative committees listed in § 4-45-101(a)(2)(D). The division shall also provide the legislative committees with any other information related to the function of the division upon request.

4-45-108. This chapter is repealed July 1, 2023.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it.