

MAINE STATE LEGISLATURE

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H.P. 98

House of Representatives, February 13, 1989

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative TELOW of Lewiston.

Cosponsored by Senator WEBSTER of Franklin and Senator DUTREMBLE of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act to More Effectively Recover Money Fraudulently Obtained
from Public Assistance.**



1 Be it enacted by the People of the State of Maine as follows:

3 Sec. 1. 22 MRSA c. 1, sub-c. III is enacted to read:

5
7 SUBCHAPTER III

9 PUBLIC ASSISTANCE FRAUD

11 §61. Definitions

13 As used in this subchapter, unless the context otherwise
15 indicates, the following terms have the following meanings.

17 1. Aid to families with dependent children program. "Aid
to families with dependent children program" means the program of
19 aid to families with dependent children authorized in chapter
1053.

21 2. Food stamp program. "Food stamp program" means the food
23 stamp program authorized in section 3104.

25 3. Fraud. "Fraud" means an intentional deception or
misrepresentation by a person with the knowledge that the
27 deception could result in unauthorized benefits to the individual
or some other person. "Fraud" includes any act that constitutes
29 fraud under the Maine Criminal Code.

31 4. General assistance program. "General assistance
program" means a program of assistance under chapter 855 and
33 includes any portion of the municipal general assistance program
funded by the department set out in chapter 1161.

35 5. Medicaid program. "Medicaid program" means aid provided
37 to the medically indigent pursuant to chapter 855.

39 6. Public assistance program. "Public assistance program"
means the aid to families with dependent children program, the
41 food stamp program, the Medicaid program or the general
assistance program.

43 §62. Prohibited acts

45 A person violates this subchapter and is subject to the
47 penalties set out in section 66 if that person:

49 1. Concealment of information. Fails to disclose a
material fact, by false statement, misrepresentation,
51 impersonation or other fraudulent means, that is used in making a
determination as to the person's qualifications to receive aid
or benefits under any of the public assistance programs.

1 2. Concealment or change in circumstances. Fails to
3 disclose a change in circumstances in order to obtain or continue
5 to receive any aid or benefits offered by any public assistance
7 program to which the person is not entitled. Any person who
9 knowingly aids or abets another person in committing the act
11 defined in this subsection is guilty of this prohibited act;

13 3. Fraudulent use of stamps, cards, certificates.
15 Fraudulently uses, transfers, acquires, alters, forges, trafficks
17 in, possesses or attempts to use, transfer, acquire, alter,
19 forge, traffick in or possess or aids and abets another person in
21 any way to fraudulently obtain;

23 A. Food stamps;

25 B. A certificate of eligibility for medical services; or

27 C. A medicaid identification card; and

29 4. Misappropriation of funds. Misappropriates or attempts
31 to misappropriate or aids and abets another person in the
33 misappropriation of funds given in exchange for food stamps or
35 any other benefit.

37 §63. Records

39 All records relating to investigations of public assistance
41 fraud in the custody of the department are business records
43 within the meaning of the Maine Revised Statutes.

45 §64. Nonexcusable action

47 Repayment of assistance or for services fraudulently
49 obtained does not constitute a defense to or grounds for
51 dismissal of criminal charges brought under this subchapter.

53 §65. Paid state warrant; prima facie evidence

55 The introduction into evidence of a paid state warrant made
57 to the order of the defendant is prima facie evidence that the
59 defendant did receive assistance from the State.

61 §66. Penalties

63 All violations of this subchapter shall be classified for
65 sentencing purposes according to the Maine Criminal Code, Title
67 17-A, section 362.

69 1. Class B crime. A Class B crime is committed if the
71 value of the public assistance to which the person was not
73 entitled exceeds \$5,000.

1 2. Class C crime. A Class C crime is committed if the
2 value of the public assistance to which the person was not
3 entitled is more than \$1,000, but does not exceed \$5,000.

5 3. Class D crime. A Class D crime is committed if the
6 value of the public assistance to which the person was not
7 entitled is more than \$500, but does not exceed \$1,000.

9 4. Class E crime. A Class E crime is committed if the
10 value of the public assistance to which the person was not
11 entitled is not more than \$500.

13 §67. Action following conviction

15 1. False claim. When a person receiving food stamp
16 assistance is adjudicated as having violated section 15, the
17 commissioner shall discontinue assistance to that person for a
18 period not to exceed 6 months, unless the court orders that the
19 assistance be discontinued for a longer period of time.

21 2. Fraudulent use. Any person convicted of fraudulently
22 using, presenting, transferring, acquiring, receiving,
23 possessing, trafficking or altering food stamps may be
24 disqualified from participation in the food stamp program for a
25 period of not less than 6 months and not more than 24 months as
26 determined by the court of appropriate jurisdiction.

27 §68. Prosecution of cases

29 If the department has sufficient evidence to suspect that a
30 person is using fraudulent means as defined in section 62 to
31 obtain any type of benefit for that person or for another person
32 from the public assistance program, the commissioner may present
33 the case to the Attorney General or to any of the district
34 attorneys throughout the State for further investigation and
35 possible prosecution.

37 The Attorney General or the several district attorneys shall
38 expeditiously pursue the cases presented by the commissioner.
39 The Attorney General or the district attorneys may not refuse to
40 pursue a case, to bring action against or to prosecute a person
41 based on the amount of benefits fraudulently received.

43 §69. Garnishment of income

45 If a person found guilty of violating this subchapter is
46 unable to compensate the department fully for the benefits
47 fraudulently derived, the court may order the employer or other
48 payer of earnings of that person to pay subsequent installments
49 directly to the department under a fair and equitable repayment
50 schedule developed by the department until the debt is paid in
51 full.

1 §70. Lien or claim on real and personal property

3 Upon conviction of a person who violates this subchapter,
5 the commissioner may serve a lien or claim on the personal
7 property of that person in accordance with Title 10, chapter 631
 or on any real property that the violator may possess.

9 Sec. 2. 22 MRSA §3183, as enacted by PL 1973, c. 790, §2, is
11 repealed.

13 **STATEMENT OF FACT**

15 Among the several purposes of the Department of Human
17 Services is to provide assistance to eligible needy citizens of
19 this State. Since funds to assist eligible needy citizens of
21 this State are limited, it is essential to carefully monitor the
23 resources of the applicants for these funds. It is also
 incumbent upon the State to implement an efficient and just
 method to recover public assistance money that recipients may
 have fraudulently obtained.

25 This bill provides an efficient and expedient means by which
27 persons who fraudulently obtain welfare benefits may be
29 prosecuted and the lost benefits may be recovered. By
31 establishing a chapter on welfare fraud which defines prohibited
33 acts and establishes penalties for violation of the chapter,
 prosecution will be more expedient. In addition, welfare fraud
 will be determined by standards specifically defined as welfare
 fraud and not by the theft provisions in the Maine Criminal Code
 which are more difficult to apply to welfare fraud.

35 The bill provides that the Commissioner of Human Services
37 may use the services of the district attorneys throughout the
39 State to bring action against persons who have committed welfare
41 fraud. Presently, the fraud investigation unit is receiving
43 approximately 100 new referrals a month and the current backlog
 is in excess of 2,000 cases. With the average case of fraud
 involving approximately \$2,000, there would presently be more
 than \$1,000,000 for which action could be expeditiously taken.

45 This bill also requires the court to garnish the income of
47 those convicted of welfare fraud until the total amount due is
49 paid. In addition, the Commissioner of Human Services is
 empowered to place a lien on the personal and real property of
 those convicted of welfare fraud.