

Subject Human services program integrity and criminal penalties

Authors Pinto

Analyst Ben Johnson (651-296-8957)

Date February 26, 2020

Overview

This bill establishes new offenses involving soliciting, receiving, offering, or making a payment, such as a bribe or kickback, in exchange for an act that involves payment under a federal health care program or state child care program. The bill makes conforming changes in other areas of law based on the creation of the new offense.

Summary

Section	Description
---------	-------------

- | | |
|---|---|
| 1 | Application.
Expands the list of entities for who the law enforcement data provisions apply to include the Department of Human Services. |
| 2 | 15-year disqualification.
Adds a felony violation of the new crimes created in section 8 to the list of offenses that trigger a 15-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. |
| 3 | Ten-year disqualification.
Adds a gross misdemeanor violation of the new crimes created in section 8 to the list of offenses that trigger a ten-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. |
| 4 | Seven-year disqualification.
Adds a misdemeanor violation of the new crimes created in section 8 to the list of offenses that trigger a seven-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. |

Section	Description
5	<p>Financial misconduct or misconduct.</p> <p>Adds a violation of the new crimes created in section 8 to the definition of “financial misconduct” or “misconduct.” Under chapter 245E, financial misconduct or misconduct can result in sanctions including, but not limited to, referral for criminal prosecution, monetary recovery, and suspending or terminating payments to a provider.</p>
6	<p>Grounds for sanctions against vendors.</p> <p>Adds the establishment of probable cause to believe that a person or entity violated the new crimes created in section 8 to the list of actions that can trigger sanctions against a vendor of medical care. Sanctions can include the imposition of a fine, suspension or withholding of payments, or termination from the program.</p>
7	<p>Legal representation.</p> <p>Permits the attorney general, in addition to a county attorney, to institute criminal or civil actions regarding alleged violations of the new crimes created in section 8.</p>
8	<p>Human services programs crimes.</p> <p>Subd. 1. Definitions. Defines “federal health care program” and “remuneration” consistent with the definitions in federal law located in United States Code, title 42, section 1320a.</p> <p>Subd. 2. Illegal remunerations for medical assistance. Establishes new criminal offenses for soliciting, receiving, offering, or paying anything of value, including a kickback or bribe, in exchange for (1) referring an individual to receive an item or service for which payment is made under a federal health care program, or (2) purchasing, leasing, ordering, or arranging for a good, service, or item for which payment is made in whole or in part under a federal health care program. Excludes remuneration and payment practices exempted under federal law.</p> <p>Subd. 3. Illegal remunerations in the child care assistance program. Establishes new criminal offenses for soliciting, receiving, offering, or paying anything of value, including a kickback or bribe, in exchange for (1) referring an individual to receive an item or service for which payment is made under chapter 119B (child care programs), or (2) purchasing, leasing, ordering, or arranging for a good, service, or item for which payment is made in whole or in part under chapter 119B (child care programs). Excludes payments made by an employer to an employee for providing covered items or services under chapter 119B while the person is acting in the course and scope of employment, and marketing or promotional offerings that directly benefit an eligible individual’s child for whom the child care provider is providing services.</p>

Section **Description**

Subd. 4. Penalties for solicitation of a kickback. Provides that a person convicted of violating subdivision 2 or 3 may be sentenced pursuant to a violation of the theft statute, section 609.52. Defines the term “value” for purposes of sentencing to include the amount of money solicited or received, or the amount of public funds expended. Penalties under section 609.52 include misdemeanors, gross misdemeanors, and felonies depending on the value associated with the violation. Consistent with existing law regarding theft, permits the value of all violations committed in a six-month period to be aggregated and permits prosecution of violations that occurred in multiple counties to be combined into a prosecution in a single county.

Subd. 5. False claims. Provides that a violation of this section constitutes a false or fraudulent claim for purposes of the Minnesota False Claims Act.

9 **Limitations.**

Establishes that the statute of limitations for the new crimes created in section 8 is six years after the commission of the offense.



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155