

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 437**

Introduced by Hansen, B., 16.

Read first time January 15, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public assistance; to amend sections  
2 68-944, 68-945, 68-946, and 68-1017, Reissue Revised Statutes of  
3 Nebraska, and section 29-110, Revised Statutes Cumulative  
4 Supplement, 2020; to change penalty and statute of limitation  
5 provisions relating to public assistance violations; to provide  
6 powers and duties for the state medicaid fraud control unit and the  
7 Attorney General under the False Medicaid Claims Act; to harmonize  
8 provisions; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-110, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 29-110 (1) Except as otherwise provided by law, no person shall be  
4 prosecuted for any felony unless the indictment is found by a grand jury  
5 within three years next after the offense has been done or committed or  
6 unless a complaint for the same is filed before the magistrate within  
7 three years next after the offense has been done or committed and a  
8 warrant for the arrest of the defendant has been issued.

9 (2) Except as otherwise provided by law, no person shall be  
10 prosecuted, tried, or punished for any misdemeanor or other indictable  
11 offense below the grade of felony or for any fine or forfeiture under any  
12 penal statute unless the suit, information, or indictment for such  
13 offense is instituted or found within one year and six months from the  
14 time of committing the offense or incurring the fine or forfeiture or  
15 within one year for any offense the punishment of which is restricted by  
16 a fine not exceeding one hundred dollars and to imprisonment not  
17 exceeding three months.

18 (3) Except as otherwise provided by law, no person shall be  
19 prosecuted for kidnapping under section 28-313, false imprisonment under  
20 section 28-314 or 28-315, child abuse under section 28-707, pandering  
21 under section 28-802, debauching a minor under section 28-805, or an  
22 offense under section 28-813 when the victim is under sixteen years of  
23 age at the time of the offense (a) unless the indictment for such offense  
24 is found by a grand jury within seven years next after the offense has  
25 been committed or within seven years next after the victim's sixteenth  
26 birthday, whichever is later, or (b) unless a complaint for such offense  
27 is filed before the magistrate within seven years next after the offense  
28 has been committed or within seven years next after the victim's  
29 sixteenth birthday, whichever is later, and a warrant for the arrest of  
30 the defendant has been issued.

31 (4) Except as otherwise provided by law, no person shall be

1 prosecuted for a violation of subsection (2) or (3) of section 28-831 (a)  
2 unless the indictment for such offense is found by a grand jury within  
3 seven years next after the offense has been committed or within seven  
4 years next after the victim's eighteenth birthday, whichever is later, or  
5 (b) unless a complaint for such offense is filed before the magistrate  
6 within seven years next after the offense has been committed or within  
7 seven years next after the victim's eighteenth birthday, whichever is  
8 later, and a warrant for the arrest of the defendant has been issued.

9 (5) Except as otherwise provided by law, no person shall be  
10 prosecuted for an offense under section 28-813.01 or 28-1463.05 (a)  
11 unless the indictment for such offense is found by a grand jury within  
12 seven years next after the offense has been committed or within seven  
13 years next after the victim's eighteenth birthday, whichever is later, or  
14 (b) unless a complaint for such offense is filed before the magistrate  
15 within seven years next after the offense has been committed or within  
16 seven years next after the victim's eighteenth birthday, whichever is  
17 later, and a warrant for the arrest of the defendant has been issued.

18 (6) No person shall be prosecuted for a violation of the Securities  
19 Act of Nebraska under section 8-1117 unless the indictment for such  
20 offense is found by a grand jury within five years next after the offense  
21 has been done or committed or unless a complaint for such offense is  
22 filed before the magistrate within five years next after the offense has  
23 been done or committed and a warrant for the arrest of the defendant has  
24 been issued.

25 (7) No person shall be prosecuted for criminal impersonation under  
26 section 28-638, identity theft under section 28-639, or identity fraud  
27 under section 28-640 unless the indictment for such offense is found by a  
28 grand jury within five years next after the offense has been done or  
29 committed or unless a complaint for such offense is filed before the  
30 magistrate within five years next after the offense has been done or  
31 committed and a warrant for the arrest of the defendant has been issued.

1 (8) No person shall be prosecuted for a violation of section 68-1017  
2 if the aggregate value of all funds and other benefits obtained or  
3 attempted to be obtained is more than five hundred dollars ~~or more~~ unless  
4 the indictment for such offense is found by a grand jury within five  
5 years next after the offense has been done or committed or unless a  
6 complaint for such offense is filed before the magistrate within five  
7 years next after the offense has been done or committed and a warrant for  
8 the arrest of the defendant has been issued.

9 (9) No person shall be prosecuted for knowing and intentional abuse,  
10 neglect, or exploitation of a vulnerable adult or senior adult under  
11 section 28-386 unless the indictment for such offense is found by a grand  
12 jury within six years next after the offense has been done or committed  
13 or unless a complaint for such offense is filed before the magistrate  
14 within six years next after the offense has been done or committed and a  
15 warrant for the arrest of the defendant has been issued.

16 (10) Except as otherwise provided by law, no person shall be  
17 prosecuted for an offense under section 28-717 (a) unless the indictment  
18 for such offense is found by a grand jury within one year and six months  
19 next after the offense has been committed or within one year and six  
20 months next after the child reaches the age of majority, whichever is  
21 later, or (b) unless a complaint for such offense is filed before the  
22 magistrate within one year and six months next after the offense has been  
23 committed or within one year and six months next after the child reaches  
24 the age of majority, whichever is later, and a warrant for the arrest of  
25 the defendant has been issued.

26 (11) There shall not be any time limitations for prosecution or  
27 punishment for treason, murder, arson, forgery, sexual assault in the  
28 first or second degree under section 28-319 or 28-320, sexual assault of  
29 a child in the second or third degree under section 28-320.01, incest  
30 under section 28-703, sexual assault of a child in the first degree under  
31 section 28-319.01, labor trafficking of a minor or sex trafficking of a

1 minor under subsection (1) of section 28-831, or an offense under section  
2 28-1463.03; nor shall there be any time limitations for prosecution or  
3 punishment for sexual assault in the third degree under section 28-320  
4 when the victim is under sixteen years of age at the time of the offense.

5 (12) The time limitations prescribed in this section shall include  
6 all inchoate offenses pursuant to the Nebraska Criminal Code and  
7 compounding a felony pursuant to section 28-301.

8 (13) The time limitations prescribed in this section shall not  
9 extend to any person fleeing from justice.

10 (14) When any suit, information, or indictment for any crime or  
11 misdemeanor is limited by any statute to be brought or exhibited within  
12 any other time than is limited by this section, then the suit,  
13 information, or indictment shall be brought or exhibited within the time  
14 limited by such statute.

15 (15) If any suit, information, or indictment is quashed or the  
16 proceedings set aside or reversed on writ of error, the time during the  
17 pendency of such suit, information, or indictment so quashed, set aside,  
18 or reversed shall not be reckoned within this statute so as to bar any  
19 new suit, information, or indictment for the same offense.

20 (16) The changes made to this section by Laws 2004, LB 943, shall  
21 apply to offenses committed prior to April 16, 2004, for which the  
22 statute of limitations has not expired as of such date and to offenses  
23 committed on or after such date.

24 (17) The changes made to this section by Laws 2005, LB 713, shall  
25 apply to offenses committed prior to September 4, 2005, for which the  
26 statute of limitations has not expired as of such date and to offenses  
27 committed on or after such date.

28 (18) The changes made to this section by Laws 2009, LB 97, and Laws  
29 2006, LB 1199, shall apply to offenses committed prior to May 21, 2009,  
30 for which the statute of limitations has not expired as of such date and  
31 to offenses committed on or after such date.

1 (19) The changes made to this section by Laws 2010, LB809, shall  
2 apply to offenses committed prior to July 15, 2010, for which the statute  
3 of limitations has not expired as of such date and to offenses committed  
4 on or after such date.

5 (20) The changes made to this section by Laws 2016, LB934, shall  
6 apply to offenses committed prior to April 19, 2016, for which the  
7 statute of limitations has not expired as of such date and to offenses  
8 committed on or after such date.

9 (21) The changes made to this section by Laws 2019, LB519, shall  
10 apply to offenses committed prior to September 1, 2019, for which the  
11 statute of limitations has not expired as of such date and to offenses  
12 committed on or after such date.

13 (22) The changes made to this section by this legislative bill shall  
14 apply to offenses committed prior to the effective date of this act for  
15 which the statute of limitations has not expired as of such date and to  
16 offenses committed on or after such date.

17 Sec. 2. Section 68-944, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 68-944 The state medicaid fraud control unit shall employ such  
20 attorneys, auditors, investigators, and other personnel as authorized by  
21 law to carry out the duties of the unit in an effective and efficient  
22 manner. The purpose of the state medicaid fraud control unit is to  
23 conduct a statewide program for the investigation and prosecution of  
24 medicaid fraud and violations of all applicable state laws relating to  
25 the providing of medical assistance and the activities of providers. The  
26 state medicaid fraud control unit may review and act on complaints of  
27 abuse and neglect of any patients or residents at health care facilities  
28 that receive payments under the medical assistance program and of  
29 patients who receive medical assistance under the medical assistance  
30 program in a noninstitutional or any other setting and may provide for  
31 collection or referral for collection of overpayments made under the

1 medical assistance program that are discovered by the unit.

2 Sec. 3. Section 68-945, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 68-945 In carrying out the duties and responsibilities under the  
5 False Medicaid Claims Act, the Attorney General may:

6 (1) Enter upon the premises of any provider participating in the  
7 medical assistance program (a) to examine all accounts and records that  
8 are relevant in determining the existence of fraud in the medical  
9 assistance program, (b) to investigate alleged abuse or neglect of  
10 patients and residents, or (c) to investigate alleged misappropriation of  
11 patients' or residents' private funds. ~~The accounts or records of a~~  
12 ~~nonmedicaid patient may not be reviewed by, or turned over to, the~~  
13 ~~Attorney General without the patient's written consent or a court order;~~

14 (2) Subpoena witnesses or materials, including medical records  
15 relating to recipients, within or outside the state and, through any duly  
16 designated employee, administer oaths and affirmations and collect  
17 evidence for possible use in either civil or criminal judicial  
18 proceedings;

19 (3) Request and receive the assistance of any prosecutor or law  
20 enforcement agency in the investigation and prosecution of any violation  
21 of this section; and

22 (4) Refer to the department for collection each instance of  
23 overpayment to a provider under the medical assistance program which is  
24 discovered during the course of an investigation.

25 Sec. 4. Section 68-946, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 68-946 (1) Notwithstanding any other provision of law, the Attorney  
28 General, upon reasonable request, shall have full access to all records  
29 held by a provider, or by any other person on the provider's ~~his or her~~  
30 behalf, that are relevant to the determination of (a) the existence of  
31 civil violations or criminal offenses under the False Medicaid Claims Act

1 or related offenses, (b) the existence of patient or resident abuse,  
2 mistreatment, or neglect, or (c) the theft of patient or resident funds.

3 (2) In examining such records, the Attorney General shall safeguard  
4 the privacy rights of recipients, avoiding unnecessary disclosure of  
5 personal information concerning named recipients. The Attorney General  
6 may transmit such information as he or she deems appropriate to the  
7 department and to other agencies concerned with the regulation of health  
8 care facilities or health professionals.

9 (3) No person holding such records may refuse to provide the  
10 Attorney General access to such records for the purposes described in the  
11 act on the basis that release would violate (a) a recipient's right of  
12 privacy, (b) a recipient's privilege against disclosure or use, or (c)  
13 any professional or other privilege or right.

14 Sec. 5. Section 68-1017, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 68-1017 (1) Any person, including vendors and providers of medical  
17 assistance and social services, who, by means of a willfully false  
18 statement or representation, or by impersonation or other device, obtains  
19 or attempts to obtain, or aids or abets any person to obtain or to  
20 attempt to obtain (a) an assistance certificate of award to which he or  
21 she is not entitled, (b) any commodity, any foodstuff, any food  
22 instrument, any Supplemental Nutrition Assistance Program benefit or  
23 electronic benefit card, or any payment to which such individual is not  
24 entitled or a larger payment than that to which he or she is entitled,  
25 (c) any payment made on behalf of a recipient of medical assistance or  
26 social services, or (d) any other benefit administered by the Department  
27 of Health and Human Services, or who violates any statutory provision  
28 relating to assistance to the aged, blind, or disabled, aid to dependent  
29 children, social services, or medical assistance, commits an offense.

30 (2) Any person who commits an offense under subsection (1) of this  
31 section shall upon conviction be punished as follows: (a) If the



1 aggregate value of all funds or other benefits obtained or attempted to  
2 be obtained is ~~less than~~ five hundred dollars or less, the person so  
3 convicted shall be guilty of a Class II ~~IV~~ misdemeanor; (b) if the  
4 aggregate value of all funds or other benefits obtained or attempted to  
5 be obtained is more than five hundred dollars ~~or more~~ but less than one  
6 thousand five hundred dollars, the person so convicted shall be guilty of  
7 a Class I ~~III~~ misdemeanor; ~~or~~ (c) if the aggregate value of all funds and  
8 other benefits obtained or attempted to be obtained is one thousand five  
9 hundred dollars or more but less than five thousand dollars, the person  
10 so convicted shall be guilty of a Class IV felony; or (d) if the  
11 aggregate value of all funds and other benefits obtained or attempted to  
12 be obtained is five thousand dollars or more, the person so convicted  
13 shall be guilty of a Class IIA felony.

14 Sec. 6. Original sections 68-944, 68-945, 68-946, and 68-1017,  
15 Reissue Revised Statutes of Nebraska, and section 29-110, Revised  
16 Statutes Cumulative Supplement, 2020, are repealed.