

By: Representative Ford

To: Insurance

HOUSE BILL NO. 787

1 AN ACT TO REENACT SECTIONS 7-5-301 THROUGH 7-5-309,  
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE INSURANCE INTEGRITY  
3 ENFORCEMENT BUREAU; TO AMEND SECTION 7-5-311, MISSISSIPPI CODE OF  
4 1972, TO EXTEND THE DATE OF REPEAL ON THE INSURANCE INTEGRITY  
5 ENFORCEMENT BUREAU; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 7-5-301, Mississippi Code of 1972, is  
8 reenacted as follows:

9 7-5-301. There is created within the Office of the Attorney  
10 General an Insurance Integrity Enforcement Bureau. The duty of  
11 the bureau is to investigate and prosecute claims of insurance  
12 abuses and crimes involving insurance. The Attorney General may  
13 employ the necessary personnel to carry out the provisions of  
14 Sections 7-5-301 through 7-5-311.

15 **SECTION 2.** Section 7-5-303, Mississippi Code of 1972, is  
16 reenacted as follows:

17 7-5-303. (1) As used in this section:

18 (a) "An insurance plan" means a plan or program that  
19 provides health benefits whether directly through insurance or  
20 otherwise and includes a policy of life or property and casualty  
21 insurance, a contract of a service benefit organization, workers'  
22 compensation insurance or any program or plan implemented in  
23 accordance with state law or a membership agreement with a health  
24 maintenance organization or other prepaid programs.

25 (b) "Insurance official" means:

26 (i) An administrator, officer, trustee, fiduciary,  
27 custodian, counsel, agent or employee of any insurance plan;



28                   (ii) An officer, counsel, agency or employee of an  
29 organization, corporation, partnership, limited partnership or  
30 other entity that provides, proposes to, or contracts to provide  
31 services through any insurance plan; or

32                   (iii) An official, employee or agent of a state or  
33 federal agency having regulatory or administrative authority over  
34 any insurance plan.

35           (2) A person or entity shall not, with the intent to  
36 appropriate to himself or to another any benefit, knowingly  
37 execute, collude or conspire to execute or attempt to execute a  
38 scheme or artifice:

39                   (a) To defraud any insurance plan in connection with  
40 the delivery of, or payment for, insurance benefits, items,  
41 services or claims; or

42                   (b) To obtain by means of false or fraudulent pretense,  
43 representation, statement or promise money, or anything of value,  
44 in connection with the delivery of or payment for insurance claims  
45 under any plan or program or state law, items or services which  
46 are in whole or in part paid for, reimbursed, subsidized by, or  
47 are a required benefit of, an insurance plan or an insurance  
48 company or any other provider.

49           (3) A person or entity shall not directly or indirectly  
50 give, offer or promise anything of value to an insurance official,  
51 or offer or promise an insurance official to give anything of  
52 value to another person, with intent to influence such official's  
53 decision in carrying out any of his duties or laws or regulations.

54           (4) Except as otherwise allowed by law, a person or entity  
55 shall not knowingly pay, offer, deliver, receive, solicit or  
56 accept any remuneration, as an inducement for referring or for  
57 refraining from referring a patient, client, customer or service  
58 in connection with an insurance plan.

59           (5) A person or entity shall not, in any matter related to  
60 any insurance plan, knowingly and willfully falsify, conceal or



61 omit by any trick, scheme, artifice or device a material fact,  
62 make any false, fictitious or fraudulent statement or  
63 representation or make or use any false writing or document,  
64 knowing or having reason to know that the writing or document  
65 contains any false or fraudulent statement or entry in connection  
66 with the provision of insurance programs.

67 (6) A person or entity shall not fraudulently deny the  
68 payment of an insurance claim.

69 **SECTION 3.** Section 7-5-305, Mississippi Code of 1972, is  
70 reenacted as follows:

71 7-5-305. (1) To fund the Insurance Integrity Enforcement  
72 Bureau, the Workers' Compensation Commission may assess each  
73 workers' compensation carrier and self-insurer, in the manner  
74 provided in Section 71-3-99, an amount based upon the proportion  
75 that the total gross claims for compensation and medical services  
76 and supplies paid by such carrier or self-insurer during the  
77 preceding one-year period bore to the total gross claims for  
78 compensation and medical services and supplies paid by all  
79 carriers and self-insurers during such period. The total amount  
80 assessed and collected by the commission from all workers'  
81 compensation carriers and self-insurers used to fund the Insurance  
82 Integrity Enforcement Bureau during each fiscal year shall be  
83 based upon the recommendation of the Insurance Integrity  
84 Enforcement Bureau, but shall not exceed One Hundred Fifty  
85 Thousand Dollars (\$150,000.00). The funds received from the  
86 assessment in this subsection (1) shall be used primarily for the  
87 purpose of investigating and prosecuting workers' compensation  
88 fraud. Within thirty (30) days of receipt, the Workers'  
89 Compensation Commission shall transfer such assessment from the  
90 Administrative Expense Fund into a special fund of the Office of  
91 the Attorney General created in the State Treasury and designated  
92 as the "Insurance Integrity Enforcement Fund."



93           (2) In addition to the monies collected under the assessment  
94 provided in this section to fund the Insurance Integrity  
95 Enforcement Bureau, for fiscal year 1999 the sum of One Hundred  
96 Fifty Thousand Dollars (\$150,000.00) shall be appropriated by the  
97 Legislature to the Insurance Integrity Enforcement Fund from the  
98 State General Fund. The funds received from the appropriation in  
99 this subsection (2) shall be used primarily for the purpose of  
100 investigating and prosecuting insurance fraud other than workers'  
101 compensation fraud.

102           (3) The Insurance Integrity Enforcement Bureau may accept  
103 gifts, grants and appropriations of state and federal funds for  
104 deposit in the Insurance Integrity Enforcement Fund. The  
105 Insurance Integrity Enforcement Fund shall be used solely to  
106 defray the expenses of the Insurance Integrity Enforcement Bureau,  
107 and any interest earned on monies in such fund shall be credited  
108 to the fund. Expenditures from the Insurance Integrity  
109 Enforcement Fund shall be made upon requisition by the Attorney  
110 General and subject to appropriation by the Legislature.

111           **SECTION 4.** Section 7-5-307, Mississippi Code of 1972, is  
112 reenacted as follows:

113           7-5-307. (1) If any workers' compensation provider, health  
114 insurance provider, employee of the Workers' Compensation  
115 Commission or other person or entity has a belief or has any  
116 information that a false or misleading statement or representation  
117 or fraud or fraudulent denial has been made in connection with or  
118 relating to a workers' compensation claim or in connection with or  
119 relating to any insurance claim in relation to an insurance plan  
120 as defined in Section 7-5-303, such person or entity may report  
121 such belief to the Insurance Integrity Enforcement Bureau, furnish  
122 any information which may be pertinent and cooperate in an  
123 investigation conducted by the bureau. Investigators for the  
124 Insurance Integrity Enforcement Bureau are authorized law  
125 enforcement officers and they are authorized to investigate and



126 exercise such powers as are granted to other authorized law  
127 enforcement officers; however, the Insurance Integrity Enforcement  
128 Bureau and its investigators and personnel shall not have any  
129 authority to impede, interfere with or control the operations and  
130 functions of the Mississippi Workers' Compensation Commission.

131 (2) Prosecutions for violations under Sections 7-5-301  
132 through 7-5-311 or for violations of any other criminal law  
133 arising from cases of insurance fraud, may be instituted by the  
134 Attorney General, his designee or the district attorney of the  
135 district in which the violation occurred, and shall be conducted  
136 in the name of the State of Mississippi. In the prosecution of  
137 any criminal proceeding in accordance with this subsection by the  
138 Attorney General, or his designee, and in any proceeding before a  
139 grand jury in connection therewith, the Attorney General, or his  
140 designee, shall exercise all the powers and perform all the duties  
141 which the district attorney would otherwise be authorized or  
142 required to exercise or perform. The Attorney General, or his  
143 designee, shall have the authority to issue and serve subpoenas in  
144 the investigation of any matter which may violate Sections 7-5-301  
145 through 7-5-311 or any matter relating to insurance fraud which  
146 may violate any criminal law.

147 (3) The Attorney General, or his designee, shall notify the  
148 Workers' Compensation Commission when the Insurance Integrity  
149 Enforcement Bureau opens or closes or otherwise disposes of an  
150 investigative file relating to workers' compensation fraud. Such  
151 notification shall be confidential and shall not be subject to  
152 release to any third party except as otherwise provided by law.  
153 After such notification, it is solely within the discretion of the  
154 Mississippi Workers' Compensation Commission whether to modify or  
155 alter the proceedings in any such workers' compensation claims  
156 from the normal course of proceedings.

157 (4) On or before January 1 of each year, the Insurance  
158 Integrity Enforcement Bureau shall file a report with the Senate



159 and House of Representatives Insurance Committees detailing its  
160 work during the preceding calendar year and shall include the  
161 following:

162 (a) The number and types of cases or complaints  
163 reported to the bureau;

164 (b) The number and types of cases assigned for  
165 investigation;

166 (c) The number of criminal warrants issued and the  
167 types of cases;

168 (d) The number and types of cases referred to a  
169 district attorney for prosecution;

170 (e) The number and types of cases retained by the  
171 Attorney General for prosecution;

172 (f) The number and types of cases closed without  
173 prosecution;

174 (g) The number and types of cases closed by the  
175 district attorney without prosecution;

176 (h) The number and types of cases pending; and

177 (i) The amount of actual expenses of the bureau during  
178 the preceding year classified by the types of cases.

179 (5) The jurisdiction of the Insurance Integrity Enforcement  
180 Bureau shall not infringe upon any matters under the jurisdiction  
181 of the Medicaid Fraud Control Unit created in Section 43-13-201 et  
182 seq.

183 **SECTION 5.** Section 7-5-309, Mississippi Code of 1972, is  
184 reenacted as follows:

185 7-5-309. (1) A person who violates any provision of Section  
186 7-5-303 shall be guilty of a felony and, upon conviction thereof,  
187 shall be punished by imprisonment for not more than three (3)  
188 years, or by a fine of not more than Five Thousand Dollars  
189 (\$5,000.00) or double the value of the fraud, whichever is  
190 greater, or both. Sentences imposed for convictions of separate  
191 offenses under this act may run consecutively.



192 (2) If the defendant found to have violated any provisions  
193 of Section 7-5-303 is an organization, then it shall be subject to  
194 a fine of not more than One Hundred Fifty Thousand Dollars  
195 (\$150,000.00) for each violation. "Organization" for purposes of  
196 this subsection means a person other than an individual. The term  
197 includes corporations, partnerships, associations, joint-stock  
198 companies, unions, trusts, pension funds, unincorporated  
199 organizations, governments and political subdivisions thereof and  
200 nonprofit organizations.

201 (3) In a proceeding for violations under Section 7-5-303,  
202 the court, in addition to the criminal penalties imposed under  
203 this section, shall assess against the defendant convicted of such  
204 violation double those reasonable costs that are expended by the  
205 Insurance Integrity Enforcement Bureau of the Office of Attorney  
206 General or the district attorney's office in the investigation of  
207 such case, including, but not limited to, the cost of  
208 investigators, process service, court reporters, expert witnesses  
209 and attorney's fees. A monetary penalty assessed and levied under  
210 this section shall be deposited to the credit of the State General  
211 Fund, and the Attorney General may institute and maintain  
212 proceedings in his name for enforcement of payment in the circuit  
213 court of the county of residence of the defendant and, if the  
214 defendant is a nonresident, such proceedings shall be in the  
215 Circuit Court of the First Judicial District of Hinds County,  
216 Mississippi.

217 **SECTION 6.** Section 7-5-311, Mississippi Code of 1972, is  
218 amended as follows:

219 7-5-311. Sections 7-5-301 through 7-5-309 shall stand  
220 repealed on July 1, 2004.

221 **SECTION 7.** This act shall take effect and be in force from  
222 and after July 1, 2003.

