

House Bill 77

By: Representatives Clark of the 98th, Ehrhart of the 36th, Barr of the 103rd, Caldwell of the 20th, Rich of the 97th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 9 of Title 16 and Article 1 of Chapter 4 of Title 49 of the
2 Official Code of Georgia Annotated, relating to fraud and related offenses and general
3 provisions relative to public assistance, respectively, so as to redesignate Code Section
4 49-4-15, relating to fraud in obtaining public assistance, food stamps, or Medicaid, penalties,
5 and recovery of overpayments, as new Code Section 16-9-64; to revise terminology in said
6 Code Section 16-9-64; to provide for definitions; to reserve the Code Section 49-4-15
7 designation; to revise Chapter 7A of Title 48 of the Official Code of Georgia Annotated,
8 relating to tax credits, so as to provide for conformity; to revise other provisions of the
9 Official Code of Georgia Annotated, so as to correct cross-references; to provide for related
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 4 of Chapter 9 of Title 16 and Article 1 of Chapter 4 of Title 49 of the Official Code
14 of Georgia Annotated, relating to fraud and related offenses and general provisions relative
15 to public assistance, respectively, are amended by redesignating Code Section 49-4-15,
16 relating to fraud in obtaining public assistance, food stamps, or Medicaid, penalties, and
17 recovery of overpayments, as new Code Section 16-9-64 and revising such new Code section
18 as follows:

19 "49-4-15. 16-9-64.

20 (a) As used in this Code section, the term:

21 (1) 'Food stamp' means a voucher, check, electronic benefits transfer card, coupon, or
22 other document that is used to obtain public assistance.

23 (2) 'Public assistance' means payment in or by money, medical care, remedial care,
24 goods, or services to or for the benefit of needy persons under any categories that may
25 be established pursuant to Article 1 of Chapter 4 of Title 49.

26 (3) 'Recipient' means a person to whom, or on whose behalf, public assistance, food
 27 stamps, or medical assistance (Medicaid) is granted.

28 ~~(a)(b)(1) Except as otherwise provided in paragraph (2) of this subsection, any person~~
 29 ~~shall be guilty of a misdemeanor if such person:~~

30 ~~(A) By Any person who by means of a false statement, failure to disclose information,~~
 31 ~~or impersonation, or by other fraudulent device, obtains or attempts to obtain; or any~~
 32 ~~person who knowingly or intentionally aids or abets such person in the obtaining or~~
 33 ~~attempting to obtain:~~

34 ~~(1)(i) Any grant or payment of public assistance, food stamps, or medical assistance~~
 35 ~~(Medicaid) to which he or she is not entitled;~~

36 ~~(2)(ii) A larger amount of public assistance, food stamp allotment, or medical~~
 37 ~~assistance (Medicaid) than that to which he or she is entitled; or~~

38 ~~(3)(iii) Payment of any forfeited grant of public assistance, food stamps, or medical~~
 39 ~~assistance (Medicaid);~~

40 ~~or any person who, with~~

41 ~~(B) Knowingly or intentionally aids or abets a person identified in subparagraph (A)~~
 42 ~~of this paragraph in the obtaining or attempting to obtain:~~

43 ~~(i) Any grant or payment of public assistance, food stamps, or medical assistance~~
 44 ~~(Medicaid) to which he or she is not entitled;~~

45 ~~(ii) A larger amount of public assistance, food stamp allotment, or medical assistance~~
 46 ~~(Medicaid) than that to which he or she is entitled; or~~

47 ~~(iii) Payment of any forfeited grant of public assistance, food stamps, or medical~~
 48 ~~assistance (Medicaid); or~~

49 ~~(C) With intent to defraud the department Department of Human Services, aids or abets~~
 50 ~~in the buying or in any way disposing of the real property of a recipient of public~~
 51 ~~assistance.~~

52 ~~shall be guilty of a misdemeanor unless~~

53 ~~(2) When the total amount of the value of public assistance, food stamps, and medical~~
 54 ~~assistance (Medicaid) so obtained in violation of paragraph (1) of this subsection exceeds~~
 55 ~~\$1,500.00, in which event such person shall be guilty of a felony and, upon conviction~~
 56 ~~thereof, shall be punished by imprisonment for not less than one nor more than five years.~~

57 ~~(3) For the purposes of this Code section, in determining the amount of value of public~~
 58 ~~assistance, food stamps, and medical assistance (Medicaid) obtained by false statement,~~
 59 ~~failure to disclose information, or impersonation, or other fraudulent device, the total~~
 60 ~~amount obtained during any uninterrupted period of time shall be treated as one~~
 61 ~~continuing offense.~~

62 ~~(b)~~(c) It shall be a fraudulent device within the meaning of subsection ~~(a)~~ (b) of this Code
63 section, and punishable as therein provided, for any person:

64 (1) Knowingly to use, alter, or transfer food ~~stamp coupons~~ stamps or authorizations to
65 purchase food ~~stamp coupons~~ stamps in any manner not authorized by law;

66 (2) Knowingly to possess food ~~stamp coupons~~ stamps or authorizations to purchase food
67 ~~stamp coupons~~ stamps when he or she is not authorized by law to possess them;

68 (3) Knowingly to possess or redeem food ~~stamp coupons~~ stamps or benefits when he or
69 she is not authorized by law to possess or redeem them; or

70 (4) Knowingly to use or redeem food ~~stamp coupons~~ stamps or benefits in any manner
71 or for purposes not authorized by law.

72 ~~(e)~~(d)(1) Any person who obtains ~~any payment of~~ public assistance, food stamps, or
73 medical assistance (Medicaid) to which he or she is not entitled or in excess of that to
74 which he or she is entitled shall be liable to the state for the amount of such overpayment.

75 (2) Any person who intentionally, with knowledge of the fraud, aids or abets any
76 recipient of public assistance, food stamps, or medical assistance (Medicaid) in obtaining
77 or attempting to obtain any payment of public assistance, food stamps, or medical
78 assistance (Medicaid) to which the recipient is not entitled or a payment in excess of that
79 to which he or she is entitled shall also be liable to the state for the amount of such
80 payment.

81 (3) Any person who receives any payment of public assistance, food stamps, or medical
82 assistance (Medicaid) to which he or she is not entitled or in excess of that to which he
83 or she is entitled shall be liable to the state for the amount of such overpayment.

84 (4) Subject to the limitations provided in this paragraph, the amount of such
85 overpayment may be recovered by civil action and, if the person receiving such
86 overpayment continues on assistance, by proportionate reduction of future public
87 assistance grants, food stamps, or medical assistance (Medicaid), in accordance with
88 lawful regulations of the ~~board which shall conform to the federal Social Security Act and~~
89 ~~federal regulations promulgated pursuant thereto~~ Board of Human Services, until the
90 excess amount has been paid. In any case in which, under this subsection, a person is
91 liable to repay any sum, such sum may be collected without interest by civil action
92 brought in the name of the ~~department~~ Department of Human Services. Any repayment
93 required by this subsection may be waived by the ~~department~~ Department of Human
94 Services, and the method of repayment, if any, including recouments from current
95 assistance grants, shall be determined by the ~~department~~ Department of Human Services.
96 Recoupment may be initiated without regard to whether the ~~department~~ Department of
97 Human Services has obtained a judgment in a civil action but shall not be initiated prior
98 to notice and an opportunity for a hearing in accordance with ~~this article~~ Article 1 of

99 ~~Chapter 4 of Title 49. The department~~ Department of Human Services shall make such
 100 waivers and determinations of repayment and the manner of repayment in accordance
 101 with lawful regulations of the ~~board which shall conform to the federal Social Security~~
 102 ~~Act and the federal regulations promulgated pursuant thereto~~ Board of Human Services.

103 ~~(d)~~(e) Any felony offense under this Code section may be prosecuted by accusation as
 104 provided in Code Section 17-7-70.1.

105 ~~(e)~~(f)(1) Prior to the filing of an accusation or the return of an indictment, a prosecuting
 106 attorney may defer further prosecution of such accusation or indictment and shall have
 107 the authority to enter into a consent agreement with the individual in which such
 108 individual admits to any overpayment, is disqualified, ~~consents to disqualification for~~
 109 ~~such period of time as is or may hereafter be provided by law~~, and agrees to repay, as
 110 restitution, such overpayment. Such agreement may provide for a lump sum repayment,
 111 installment payments, formula reduction of benefits, or any combination thereof. Such
 112 agreement shall toll the running of the statute of limitations for such offense for the
 113 period of the agreement. A consent agreement entered into in accordance with this
 114 subsection shall not constitute a criminal charge.

115 (2) Any such agreement shall be filed in the criminal docket of the court having
 116 jurisdiction over the violation of this Code section without the necessity of the state filing
 117 an accusation or an indictment being returned by a grand jury. The clerk shall enter upon
 118 the docket 'CONSENT AGREEMENT NOT A CRIMINAL CHARGE.'

119 (3) Upon successful completion of the terms and conditions of the consent agreement,
 120 criminal prosecution of the individual for such offense shall be barred; provided,
 121 however, that nothing in this paragraph shall prohibit the state from introducing evidence
 122 of such offense as a similar transaction in any subsequent prosecution or for the purpose
 123 of impeachment. The successful completion of the terms and conditions of the agreement
 124 shall not be considered a criminal conviction.

125 (4) If the individual fails to comply with the terms of such consent agreement, the state
 126 may proceed with a criminal prosecution."

127 **SECTION 2.**

128 Chapter 7A of Title 48 of the Official Code of Georgia Annotated, relating to tax credits, is
 129 amended by revising subsection (e) of Code Section 48-7A-3, relating to persons entitled to
 130 claim tax credit, tax credits schedule, tax credit claimed against tax liability, period for filing
 131 claims for credit, applicability to food stamp recipients, and authority of commissioner, as
 132 follows:

133 "(e) Any individual who receives a food stamp allotment stamps for all or any part of a
134 taxable year shall not be entitled to claim a credit under this Code section for that taxable
135 year."

136 **SECTION 3.**

137 Article 1 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
138 general provisions relative to public assistance, is amended by reserving the former Code
139 Section 49-4-15 designation.

140 **SECTION 4.**

141 Said article is further amended by revising subsection (a) of Code Section 49-4-21, relating
142 to photo requirement on electronic benefits transfer cards for food stamps, as follows:

143 "(a) The department shall require that all electronic benefits transfer cards which include
144 food ~~stamp benefits~~ stamps contain a photograph of one or more members of a household
145 who are authorized to use such food stamp benefits. The department ~~is~~ shall be authorized
146 to promulgate regulations necessary to implement the provisions of this Code section."

147 **SECTION 5.**

148 The Official Code of Georgia Annotated is amended by replacing "Code Section 49-4-15"
149 with "Code Section 16-9-64" wherever the former occurs in:

- 150 (1) Code Section 16-10-51, relating to bail jumping; and
151 (2) Code Section 48-7-161, relating to defined terms for setoff debt collection for income
152 taxes.

153 **SECTION 6.**

154 All laws and parts of laws in conflict with this Act are repealed.