SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL:	CS/SB 1596
INTRODUCER:	Criminal Justice Committee and Senator Alexander
SUBJECT:	Insurance Fraud
DATE:	April 25, 2006
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	**Favorable**
2.	Bedford	Wilson	HE	**Fav/4 amendments**
3.	Erickson	Cannon	CJ	**Fav/CS**
4.			GE	
5.			GA	
6.				

I. Summary:

The bill amends provisions of the Insurance Code pertaining to insurance fraud. The bill does the following:

- Requires that crash reports contain specified information, and that the absence of information in a report regarding the existence of passengers in the vehicles involved in the crash constitutes a rebuttable presumption that no such passengers were involved in the crash;
- Provides that the medical director or the clinic director of a health care clinic shall not engage in the referral of patients to the clinic if the clinic performs magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography, and provides that a medical director who violates this prohibition commits a third degree felony;
- Provides that it is a second-degree felony for a person to organize, plan, or knowingly participate in a scheme to create documentation of a motor vehicle crash that did not occur ("paper" or "phantom" accident) and provides for a 2-year minimum mandatory term of imprisonment;
- Provides that it is a third-degree felony for insurance agents, adjusters, customer representatives, and others to transact insurance without a license;
- Provides that it is a third-degree felony to solicit or receive a commission, bonus, kickback, or bribe in return for accepting treatment from a health care provider or health care facility;
- Clarifies that kickbacks for patient referrals are illegal whether the patient is being referred to or from a health care provider or facility;

- Provides that it is a third-degree felony for a person to willfully violate an emergency rule or order of the Department of Financial Services (DFS), the Office of Insurance Regulation (OIR), or the Financial Services Commission (Governor and Cabinet); however, such penalties would not apply to licensees or affiliated parties of licensees;
- Provides that falsely personating an officer of the DFS is a third-degree felony;
- Requires the Division of Insurance Fraud (DIF) to deposit revenues received from criminal proceedings or forfeiture proceedings into the Insurance Regulatory Trust Fund to be used to carry out the division's responsibilities;
- Requires health care clinics to post anti-fraud reward signs in conspicuous locations and allows full and complete access to such facilities by DIF authorized employees to make unannounced inspections to ensure compliance;
- Clarifies what is meant by independent procurement of coverage to state that independent procurement of coverage is coverage by an unauthorized insurer legitimately licensed in another state or country;
- Requires insurers, upon receiving notice of a claim, to notify those insured or persons for whom a claim for reimbursement for diagnosis or treatment of injuries has been filed, that the DFS may pay rewards of up to $25,000 for information leading to the arrest and conviction of persons committing specified crimes investigated by the DIF;
- Requires drivers to pay an additional fee ($180) when seeking reinstatement of their driver's license if such license was suspended or revoked due to the driver being convicted of specified insurance fraud crimes;
- Provides that a driver's license must be revoked based upon such drivers conviction of specified insurance fraud crimes;
- Deletes a criminal penalty, which makes it a first-degree misdemeanor to violate a stop work order issued by DFS under the workers' compensation law. This provision is in conflict with a penalty currently provided under s. 440.105(4)(b)8, F.S., which makes a violation of a stop work order a third degree felony;
- Requires insurers to timely submit acceptable anti-fraud plans or anti-fraud investigative descriptions with DIF and provides for an administrative fine;
- Clarifies creating, marketing, or presenting false or fraudulent proof of motor vehicle insurance; and
- Provides that the law relating to fraudulently obtaining goods or services does not apply to investigative actions by law enforcement officers.

This bill amends sections 322.21, 322.26, 400.9935, 440.105, 456.054, 624.15, 624.112, 626.938, 626.9891, 627.736, 817.234, 817.2361, 817.50, 817.505, 843.08, and 932.7055, Florida Statutes.

This bill creates section 626.9893, Florida Statutes.

II. Present Situation:

Division of Insurance Fraud

The primary agency established to investigate motor vehicle, as well as all insurance fraud, is the DIF, which employs 171 persons, of which 128 are sworn law enforcement officers, in regional offices statewide. The DIF's sworn personnel investigate all types of criminal insurance fraud

under s. 626.989, F.S. Division officers may make warrantless arrests upon probable cause for criminal violations established as a result of an investigation. The general laws applicable to arrests by state law enforcement officers apply to DIF investigators.

According to DIF officers, Florida's insurance laws are being exploited by sophisticated criminal organizations in schemes that involve heath care clinic fraud, staging (faking) car crashes, manufacturing false crash reports, adding occupants to existing crash reports, filing personal injury protection (PIP) claims using contrived injuries, colluding with dishonest medical treatment providers to fraudulently bill insurance companies for medically unnecessary or non-existent treatments, and patient-brokering (referring patients to medical providers for a bounty).

Insurance companies authorized to do business in Florida and other specified persons must report suspected fraud to the DIF and are protected from civil liability, provided the information is reported in good faith. Further, insurers are required to adopt anti-fraud plans and to establish and maintain anti-fraud units within their companies to investigate insurance fraud under s. 626.9891, F.S.

Officials with the DIF assert that they are one of the few law enforcement organizations in state government that does not have a forfeiture fund. Such funds are used to purchase special equipment and other non-budgeted items that enhance an agency's ability to detect crime and enforce criminal laws. According to these officials, the existence of the fund creates a great incentive for investigators to pursue forfeiture actions in conjunction with their cases. Presently, the DIF deposits all revenues gained from state forfeiture actions into the state's General Revenue fund.

The law provides for an Anti-Fraud Reward Program to be established within DFS, which is funded, from the Insurance Regulatory Trust Fund.[1] Under the program, DFS may pay rewards of up to $25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by DIF arising from specified violations. Only a single reward amount may be paid out for claims arising from the same transaction.

Drivers License Fees

Under current law, any person who applies for reinstatement following the suspension or revocation of the person's driver's license must pay the Department of Highway and Motor Vehicles (DHSMV) a service fee of $35 following a suspension, and $60 following a revocation, which is in addition to the fee for a license.[2] The DHSMV subsequently deposits portions of these fees into the General Revenue Fund and the Highway Safety Operating Trust Fund.

Under s. 322.26, F.S., the DHSMV is mandated to revoke a person's driver's license if such person is convicted of specified motor vehicle related crimes including murder or manslaughter resulting from the operation of a motor vehicle, any felony in the commission of which a motor vehicle is used, perjury or statement under oath to the DHSMV relating to the ownership or operation of motor vehicles, or other specified crimes.

[1] Section 626.9892, F.S.
[2] Section 322.21, F.S.

Worker's Compensation
Any person or entity defined as an employer by ch. 440, F.S., is required to provide workers' compensation coverage to its employees. The workers' compensation system provides indemnity and medical benefits to injured employees. In order for an employee to be entitled to workers' compensation benefits, the law requires that the injury "arise out of" and be in the course and scope of the employment.[3] Presently there are two conflicting criminal penalties under the law pertaining to employers knowingly violating a stop-work order issued by the DFS (one penalty makes it a first-degree misdemeanor to violate a stop-work order under s. 400.105(2), F.S., and the other penalty makes a violation of a stop work order a third-degree felony under s. 440.105(4), F.S.).

Health Care Clinics
Health care clinics are regulated under part XIII of ch. 400, F.S., by the Agency for Health Care Administration (AHCA). AHCA currently licenses approximately 2,435 health care clinics statewide. However, about 4,590 clinics are exempt from licensure and are therefore subject to no regulation under the clinic law.

Florida's Anti-kickback Laws
Section 456.054, F.S., makes it unlawful for any health care provider or any provider of any health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients. "Kickback" is defined to mean a remuneration or payment back pursuant to an investment interest, compensation arrangement, or otherwise, by a provider of health care services or items, of a portion of charges for services rendered to a referring health care provider as an incentive or inducement to refer patients for future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

Section 458.331(1)(i), F.S., prohibits a medical physician from paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The prohibition on paying or receiving a kickback may not be construed to prevent a physician from receiving a fee for professional consultation services. An identical prohibition exists for Florida-licensed osteopathic physicians under s. 459.015(1)(j), F.S.

The "Patient Self- Referral Act of 1992"[4] prohibits the referral of patients by a health care provider for specified services or treatments when the referring health care provider has a financial interest in the service or treatment to be provided. The act provides an exception to its prohibited referrals for investment interests in an entity, which owns or leases and operates a Florida-licensed hospital or nursing home.[5]

[3] Section 440.9935, F.S.
[4] Section 456.053, F.S.
[5] See s. 456.053(1)(k) 4., F.S.

Patient Brokering
Section 817.505, F.S., makes it unlawful for any person, including any health care provider or health care facility to offer or pay any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement to induce the referral of patients, or in return for referring patients, or aid, abet, advise, or otherwise participate in this type of conduct.

III. Effect of Proposed Changes:

Section 1. Amends s. 316.068, F.S., pertaining to crash report forms. The bill requires that each written crash report include the date, time, and location of the crash; the names and addresses of the parties involved; the names and addresses of all drivers and passengers in the vehicles involved; the names and addresses of witnesses; the name, badge number, and law enforcement agency of the officer investigating the crash; and the names of the insurance companies for the respective parties involved in the crash. The absence of information in the report regarding the existence of passengers in the vehicles involved in the crash constitutes a rebuttable presumption that no such passengers were involved in the reported crash.

Section 2. Amends s. 322.21, F.S., pertaining to driver's license fees, to require a driver to pay an additional fee of $180 if the driver seeks to have his or her driver's license reinstated and if such license was previously suspended or revoked due to the driver being convicted of one of three crimes: patient brokering under s. 817.505, F.S.; solicitation under s. 817.234(8), F.S.; or participating in a staged motor vehicle accident under s. 817.234(9), F.S. The additional fee would be deposited in the Highway Safety Operating Trust Fund at the time of reinstatement of the driver's license. The DFS asserts that this proposal is a way to provide a significant disincentive for persons to commit these types of motor vehicle related crimes.

Section 3. Amends s. 322.26, F.S., pertaining to the mandatory revocation of a driver's license by the DHSMV based upon conviction of specified offenses. The bill adds convictions for patient brokering under s. 817.505, F.S.; solicitation under s. 817.234(8), F.S.; or participating in a staged motor vehicle accident under s. 817.234(9), F.S., to the list of such offenses.

Section 4. Amends s. 400.9935, F.S., pertaining to responsibilities of a health care clinic, to provide that the medical director or the clinic director shall not engage in the referral of patients to the clinic if the clinic performs magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography. A medical director who violates this prohibition commits a third degree felony.

The term "referral of patients" means the referral of one or more patients of the medical director or clinic director or of a member of the director's group practice to the clinic for magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography.

The bill also requires every clinic licensed under the Health Care Clinic Act (part XIII of chapter 400, F.S.) to post a "reward" sign in a conspicuous location readily visible to patients indicating that under s. 626.9892, F.S., the DFS may pay rewards of up to $25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by DIF arising from the following violations:

- s. 440.105, F.S., relating to prohibited activities under the workers' compensation law;
- s. 624.15, F.S., relating to general penalties for willful violations of the Insurance Code;
- s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts under the Insurance Code;
- s. 626.989, F.S., relating to resisting an arrest or otherwise interfering with DIF investigators; or
- s. 817.234, F.S., relating to false and fraudulent insurance claims.

The bill provides that "authorized employees" of DIF would have the authority to make unannounced inspections of licensed clinics as necessary to determine whether the clinic complies with the signage provisions and requires clinics to allow full and complete access to such DIF employees. It is unclear whether the term "authorized employee[s]" means that sworn law enforcement personnel can inspect these clinics. Also, this inspection provision is in addition to the inspection authority currently granted AHCA under s. 400.9915, F.S.

Section 5. Amends s. 440.105(2)(a), F.S., pertaining to prohibited activities under the worker's compensation law. The bill strikes a criminal penalty provision which makes it a first-degree misdemeanor to violate a stop-work order issued by DFS because there is a duplicative provision which makes it a third-degree felony to violate such an order under s. 440.105(4)(b)8, F.S. The bill also amends a current provision that makes it unlawful for any employer to knowingly fail to secure compensation if required by ch. 440, F.S., so that the unlawful act, as amended is the employer's failure to secure worker's compensation insurance coverage if required by ch. 440, F.S.

Section 6. Amends s. 456.054, F.S., relating to prohibited kickbacks. The bill clarifies the definition of kickback by deleting obsolete language and providing that a kickback means a remuneration or payment by or on behalf of a provider of health care services or items to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense. According to officers with the DIF, the existing definition is limited in its application and is not used by law enforcement detectives or prosecutors tasked with the responsibility of enforcing the provision.

Section 7. Amends s. 624.15, F.S., which establishes general penalties under the Insurance Code, to make it a misdemeanor of the second-degree (unless otherwise specifically provided by statute) to willfully violate a *rule* of the DFS, OIR, or FSC. The bill would also make each willful violation of an *emergency rule or order* of the DFS, OIR, or FSC by a person who is not licensed, authorized, or eligible to engage in business in accordance with the Insurance Code, a third-degree felony. Each instance of such violation is a separate offense. However, this provision would not apply to licensees or affiliated parties of licensees.

According to DIF officers, these provisions would allow DIF investigators to enforce violations of department rule the same way they may currently enforce violations of the Insurance Code. Also, making a violation of an emergency rule or order a felony would enhance enforcement authority for DIF during the aftermath of hurricanes because emergency rules and orders are oftentimes issued by the FSC after such natural disasters.

Section 8. Amends s. 626.112, F.S., relating to licensing requirements for agents, adjusters, and other licensees who transact insurance without a license. Specifically, the bill provides that any such agent, adjuster, or other licensee who knowingly transacts insurance or engages in insurance activities in Florida without a license commits a third-degree felony.

Section 9. Amends s. 626.938, F.S., pertaining to reporting and taxing of independently procured coverages. The law currently allows persons in Florida to independently procure insurance from foreign (out of state) or alien (out of country) insurers that do not hold a Florida certificate of authority and to pay all necessary taxes and fees. The bill clarifies that any insurance on a risk located in Florida in an unauthorized insurer legitimately licensed in another state or country procured through solicitations occurring or made outside Florida is deemed insurance procured within this state. This clarification is necessary because some unauthorized insurers have asserted the defense that they are soliciting or selling independently procured coverage and therefore are not in violation of the provisions of the Florida Insurance Code pertaining to unauthorized entities. The bill also provides that independently procured coverage may not be secured for workers' compensation insurance.

Section 10. Amends s. 626.9891, F.S., pertaining to insurer anti-fraud investigative plans and units. Current law allows the DFS to impose an administrative fine up to $2,000 a day for an insurer that fails to submit a final anti-fraud plan or otherwise fails to implement such plan, fails to implement the provisions of a plan or an anti-fraud investigative unit, or otherwise refuses to comply with the requirements of this section. This bill would clarify this requirement by specifying the insurer must "timely" submit an "acceptable" anti-fraud plan or unit "description" to the "office or commission," in addition to the department. The bill clarifies that the department, office, or commission may impose an administrative fine of up to $2,000 for failure of an insurer to "submit an acceptable" plan or unit description, until the department, office, or commission deems the insurer in compliance.

The bill also allows the DFS to impose another administrative fine (amount unspecified) against an insurer that fails to implement or follow the provisions of an anti-fraud plan or anti-fraud investigative unit description. According to DIF officials, the authority to impose a more significant fine would create an incentive for insurers to implement and follow the provisions of their fraud plans or investigative units.

The bill also provides that anti-fraud plans or antifraud-investigative unit descriptions required to be furnished to the division are trade secrets as defined in s. 688.002, F.S., and a court or administrative hearing officer must preserve the secrecy of the plans or descriptions by reasonable means, which may include granting protective orders in connection with discovery proceedings., holding in camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose the alleged trade secret without prior court approval. Findings, statements, discussions, reports, or documentation generated by the department or the office relating to the plans or descriptions, if determined to contain trade secrets, may be subject to the same protections from unauthorized disclosure as are provided for the plans or descriptions (as previously described).

Section 11. Creates s. 626.9893, F.S., relating to criminal forfeiture proceedings and disposition of revenues. The bill provides that the DIF may deposit revenues received as a result of criminal

or forfeiture proceedings, other than revenues deposited into the Department of Financial Services' Federal Equitable Sharing Trust Fund under s. 17.43, F.S., into the Insurance Regulatory Trust Fund. Moneys deposited must be separately accounted for and used solely for DIF to carry out its responsibilities. The bill further provides that, notwithstanding ss. 216.301, and 216.351, F.S., any balance of moneys deposited that remain at the end of any fiscal year must remain in the Trust Fund at the end of that year and shall be available for the DIF.

Section 12. Amends s. 627.4133, F.S., pertaining to notice of cancellation, nonrenewal, or renewal premium. Currently, subsection (4) of this section provides that, notwithstanding the provisions of s. 440.42(3), F.S., if cancellation of a policy providing coverage for workers' compensation and employer's liability insurance is requested by the insured, such cancellation shall be effective on the date the carrier sends the notice of cancellation to the insured. The bill adds that any retroactive assumption of coverage and liabilities under a policy providing worker's compensation and employer's liability insurance may not exceed 21 days.

Section 13. Amends s. 627.736, F.S., pertaining to personal injury protection (PIP) motor vehicle insurance. The bill requires that an insurer, upon receiving notice of a claim, must provide notice to the insured or the person for whom a claim for reimbursement for diagnosis or treatment of injuries has been filed that, pursuant to s. 626.9892, F.S., the DFS may pay rewards of up to $25,000 for information leading to the arrest and conviction of persons committing crimes investigated by the DIF arising from violations of any of the following statutes:

- s. 440.105, F.S., relating to prohibited activities under the workers' compensation law;
- s. 624.15, F.S., relating to general penalties for willful violations of the Insurance Code;
- s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts under the Insurance Code;
- s. 626.989, F.S., relating to resisting an arrest or otherwise interfering with DIF investigators; or
- s. 817.234, F.S., relating to false and fraudulent insurance claims.

The notice would also provide that solicitation of a person injured in a motor vehicle crash for purposes of filing PIP or tort claims could be a violation of s. 817.234, F.S. (false insurance claims), or s. 817.505, F.S. (patient brokering), or rules regulating the Florida Bar and should be reported immediately to the DIF, if such conduct has taken place.

Section 14. Amends s. 627.7401, F.S., pertaining to notification of insured of their right to receive PIP benefits under the Florida Motor Vehicle No-Fault Law, to provide that such notification shall include a statement that:

- Pursuant to s. 626.9892, F.S., the DFS may pay rewards of up to $25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of ss. 440.105, 624.15, 626.9541, 626.989, or 817.234, F.S.
- Pursuant to s. 627.736(6)(e)1., F.S., if the insured notifies the insurer of a billing error, the insured may be entitled to a certain percentage of a reduction in the amount paid by the insured's motor vehicle insurer.

- Solicitation of a person injured in a motor vehicle crash for purposes of filing PIP or tort claims could be a violation of s. 817.234, s. 817.505, or rules regulating the Florida Bar, and such conduct should be immediately reported to the division.

Section 15. Amends s. 627.912, F.S., relating to professional liability claims and actions. Currently, under this section, the OIR is required to impose a fine of $250 per day per case, but not to exceed a total of $10,000 per case, against an insurer, commercial self-insurance fund, medical malpractice self-insurance fund, or risk retention group that violates the requirements of this section. The OIR has requested flexibility in imposing fines, as some violations may be inadvertent, minor or insubstantial (e.g., a required submission is a day late or is in a paper format rather than an electronic format). The bill provides the OIR with the discretion to impose the fine. The minimum fine amount per day per case is also revised to specify that the fine is up to $250 per day per case.

Section 16. Amends s. 817.234, F.S., pertaining to the false and fraudulent insurance claims law. The bill clarifies that any "service" provider (except a hospital) who waives deductibles or co-payments as a general business practice commits insurance fraud. The proposal also deletes the term "patient" and inserts the term "insured" to designate the person for whom, or entity for which, a service provider would agree to waive deductibles or co-payments. The bill makes it a second-degree felony (with a 2-year mandatory minimum term of imprisonment) to organize, plan, or knowingly participate in a "scheme to create documentation of a motor vehicle crash that did not occur" for the purpose of making tort claim or claims for PIP benefits. This penalty currently applies to "staged accidents." According to representatives with DFS, criminalizing the activities of intentionally causing a "paper accident" would help deter motor vehicle insurance fraud.

Section 17. Amends s. 817.2361, F.S., relating to false or fraudulent motor vehicle insurance. Current law makes it a third-degree felony to create, market, or present a false or fraudulent "insurance card." The bill deletes the term "card" and expands the applicability of the statute to provide that any person who creates, markets, or presents false or fraudulent "proof of" motor vehicle insurance commits a third-degree felony.

Section 18. Amends s. 817.50, F.S., pertaining to fraudulently obtaining goods and services from a health care provider. Under current law, if a person provides a health care provider with a false or fictitious name or address or assigns to any health care provider the proceeds of any health maintenance contract or insurance contract, knowing that such contract is no longer in force, is invalid, or is void for any reason, such action shall be prima facie evidence of the intent to defraud such provider. The bill adds language to protect investigators engaged in undercover police investigations. It provides that the law does not apply to investigative actions taken by law enforcement officers for law enforcement purposes in the course of their official duties. This provision will help DIF investigators because it would solve the potential problem of having any criminal case dismissed in court where an insurer issued a pretext policy for DIF as part of the investigation against a health care provider.

Section 19. Amends s. 817.505, F.S., relating to patient brokering. The bill clarifies that it is a third-degree felony for any person, including any health care provider or facility, to offer to pay any commission, bonus, rebate, kickback, or bribe in cash or in kind, or engage in a split-fee

arrangement in any form whatsoever, to induce the referral of patients "to or" from a health care provider or facility. The bill also clarifies that it is a third-degree felony to solicit or receive any commission, bonus, rebate, kickback, or bribe in cash or in kind, or engage in a split-fee arrangement in any form whatsoever, in return for referring patients to "or from" a health care provider or facility. Also, the legislation adds a similar provision making it a third-degree felony for any person, including any health care provider or facility, to "solicit or receive any commission . . . in any form, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility." Aiding, abetting, or advising, or otherwise participating in this crime is also a third degree felony.

The bill expands the term "health care provider or health care facility" to mean any person "required to be licensed, certified, or registered; or lawfully exempt from being required to be licensed, certified or registered" with AHCA and the Department of Health.

Section 20. Amends s. 843.08, F.S., pertaining to falsely personating an officer. Currently, it is a third-degree felony to falsely assume or pretend to be a specified law enforcement officer. The bill extends this penalty to the impersonation of an officer of the DFS.

Section 21. Amends s. 932.7055, F.S., relating to disposition of liens and forfeited property, to provide that if the seizing agency is the Division of Insurance Fraud of the Department of Financial Services, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Insurance Regulatory Trust Fund as provided in s. 626.9893, F.S., or into the Department of Financial Services' Federal Equitable Sharing Trust Fund as provided in s. 17.43, F.S., as applicable.

Section 22. Provides for severability of the provisions of the bill. If any provision of the bill is held invalid, the invalidity does not affect other provisions or applications of this legislation.

Section 23. Provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The overall impact of this bill should be to reduce insurance loss costs and premiums attributable to insurance fraud.

Persons would be subject to specified penalties, including criminal prosecution, for various acts specified by the bill.

Health care clinics will be responsible for placing anti-fraud reward signs in conspicuous locations within their clinics and must allow complete access to their premises to "authorized employees" with the Fraud Division to make inspections to determine compliance with the signage requirement.

There may be administrative expenses to insurers in complying with the additional policyholder notice requirement under the bill.

C. Government Sector Impact:

Representatives with DFS stated that the responsibilities set forth in the bill would be carried out within the existing resources of the agency. The DIF anticipates the revenue that will be received due to administrative fines imposed against insurers for failing to submit acceptable anti-fraud plans or anti-fraud unit descriptions will be fiscally insignificant.

The Criminal Justice Estimating Conference states that the penalty provisions of this legislation have an indeterminate, but likely insignificant, prison bed impact.

It is not known how much moneys would be deposited by the Division of Insurance Fraud into the Insurance Regulatory Trust Fund as a result of criminal proceedings or forfeiture proceedings under the bill. Such amounts are currently deposited into the General Revenue Fund.

The bill proposes a new surcharge ($180) when persons convicted on specific insurance fraud offenses seek reinstatement of their suspended or revoked driver's license. Representatives with the DHSMV state that the amount to be collected is "indeterminate" since the number of such convictions is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.