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HOUSE BILL 80

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Joseph Cervantes

ENDORSED BY THE

COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CIVIL ACTIONS; PROVIDING THAT ANY PERSON MAY BRING AN ACTION ON BEHALF OF THE STATE PURSUANT TO THE MEDICAID FALSE CLAIMS ACT; CLARIFYING PROVISIONS OF THE FRAUD AGAINST TAXPAYERS ACT; PROVIDING THAT THE STATE IS ENTITLED TO ATTORNEY FEES AND COSTS FOR ADDITIONAL CLAIMS ASSERTED AGAINST A DEFENDANT; PROVIDING A DEADLINE FOR THE STATE TO INTERVENE; PROVIDING FOR CIVIL INVESTIGATIVE DEMANDS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 27-14-7 NMSA 1978 (being Laws 2004, Chapter 49, Section 7) is amended to read:

"27-14-7. CIVIL ACTION FOR FALSE CLAIMS.--

A. The department shall diligently investigate suspected violations. If the department finds that a person

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1 has violated or is violating the provisions of the Medicaid
2 False Claims Act, the department may bring a civil action
3 pursuant to Subsection F of this section.

4 B. A private civil action may be brought by [~~an~~
5 ~~affected~~] a person for a violation of the Medicaid False Claims
6 Act on behalf of the person bringing suit and for the state.
7 The action shall be brought in the name of the state. The
8 action may be dismissed if the court and the department,
9 pursuant to Subsection F of this section, give written consent
10 to the dismissal and their reasons for consenting.

11 C. For private civil actions, a copy of the
12 complaint and written disclosure of substantially all material
13 evidence and information the person possesses shall be served
14 on the department. The complaint shall be filed in writing and
15 shall remain under seal for at least sixty days. The complaint
16 shall not be served on the defendant until the expiration of
17 sixty days or any extension approved. Within sixty days after
18 receiving a copy of the complaint, the department shall conduct
19 an investigation of the factual allegations and legal
20 contentions made in the complaint, shall make a written
21 determination of whether there is substantial evidence that a
22 violation has occurred and shall provide the person against
23 which a complaint has been made with a copy of the
24 determination. If the department determines that there is not
25 substantial evidence that a violation has occurred, the

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1 complaint shall be dismissed.

2 D. The department may, for good cause shown, move
3 the court for extensions of time during which the complaint
4 remains under seal. Any such motion may be supported by
5 affidavits or other submissions in camera. The defendant shall
6 not be required to respond to a complaint filed pursuant to
7 this section until twenty days after the complaint is unsealed
8 and served to the defendant. The complaint shall be deemed
9 unsealed at the expiration of the sixty-day period in the
10 absence of a court-approved extension.

11 E. Before the expiration of the sixty-day period or
12 any extensions obtained, the department, pursuant to Subsection
13 F of this section, shall:

14 (1) proceed with the action, in which case the
15 action shall be conducted by the department; or

16 (2) notify the court and the person who
17 brought the action that it declines to take over the action, in
18 which case the person bringing the action shall have the right
19 to conduct the action if the department determined that there
20 is substantial evidence that a violation of the Medicaid False
21 Claims Act has occurred.

22 F. The department shall notify the attorney general
23 prior to filing a civil action pursuant to the Medicaid False
24 Claims Act and shall not proceed with the action except with
25 the written approval of the attorney general. The attorney

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1 general shall, within twenty working days from the notification
2 by the department, notify the department whether it may proceed
3 with the civil action. Failure by the attorney general to
4 notify the department of its determination within the specified
5 time period shall be construed as consent to proceed. The
6 department shall, after filing the civil action, notify the
7 attorney general of any proposed dismissal or settlement, and
8 the department shall not proceed with the dismissal or
9 settlement except with the written approval of the attorney
10 general."

11 SECTION 2. Section 44-9-1 NMSA 1978 (being Laws 2007,
12 Chapter 40, Section 1) is amended to read:

13 "44-9-1. SHORT TITLE.--~~[This act]~~ Chapter 44, Article 9
14 NMSA 1978 may be cited as the "Fraud Against Taxpayers Act"."

15 SECTION 3. Section 44-9-3 NMSA 1978 (being Laws 2007,
16 Chapter 40, Section 3) is amended to read:

17 "44-9-3. FALSE CLAIMS--LIABILITY--PENALTIES--EXCEPTION.--

18 A. A person shall not:

19 (1) knowingly present, or cause to be
20 presented, to an employee, officer or agent of the state or to
21 a contractor, grantee or other recipient of state funds a false
22 or fraudulent claim for payment or approval;

23 (2) knowingly make or use, or cause to be made
24 or used, a false, misleading or fraudulent record or statement
25 to obtain or support the approval of or the payment on a false

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1 or fraudulent claim;

2 (3) conspire to defraud the state by obtaining
3 approval or payment on a false or fraudulent claim;

4 (4) conspire to make, use or cause to be made
5 or used, a false, misleading or fraudulent record or statement
6 to conceal, avoid or decrease an obligation to pay or transmit
7 money or property to the state;

8 (5) when in possession, custody or control of
9 property or money used or to be used by the state, knowingly
10 deliver or cause to be delivered less property or money than
11 the amount indicated on a certificate or receipt;

12 (6) when authorized to make or deliver a
13 document certifying receipt of property used or to be used by
14 the state, knowingly make or deliver a receipt that falsely
15 represents a material characteristic of the property;

16 (7) knowingly buy, or receive as a pledge of
17 an obligation or debt, public property from any person that may
18 not lawfully sell or pledge the property;

19 (8) knowingly make or use, or cause to be made
20 or used, a false, misleading or fraudulent record or statement
21 to conceal, avoid or decrease an obligation to pay or transmit
22 money or property to the state; or

23 (9) as a beneficiary of an inadvertent
24 submission of a false claim and having subsequently discovered
25 the falsity of the claim, fail to disclose the false claim to

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1 the state within a reasonable time after discovery.

2 B. Proof of specific intent to defraud is not
3 required for a violation of Subsection A of this section.

4 C. A person who violates Subsection A of this
5 section shall be liable for civil, remedial and curative
6 damages as follows:

7 (1) three times the amount of damages
8 sustained by the state because of the violation;

9 (2) a civil penalty of not less than five
10 thousand dollars (\$5,000) and not more than ten thousand
11 dollars (\$10,000) for each violation;

12 (3) the costs of a civil action brought to
13 recover damages or penalties; and

14 (4) reasonable attorney fees, including the
15 fees of the attorney general or state agency counsel.

16 D. A court may assess not less than two times the
17 amount of damages sustained by the state if the court finds all
18 of the following:

19 (1) the person committing the violation
20 furnished the attorney general with all information known to
21 that person about the violation within thirty days after the
22 date on which the person first obtained the information;

23 (2) at the time that the person furnished the
24 attorney general with information about the violation, a
25 criminal prosecution, civil action or administrative action had

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1 not been commenced with respect to the violation, and the
2 person did not have actual knowledge of the existence of an
3 investigation into the violation; and

4 (3) the person fully cooperated with any
5 investigation by the attorney general.

6 E. This section does not apply to claims, records
7 or statements made pursuant to the provisions of Chapter 7 NMSA
8 1978."

9 SECTION 4. Section 44-9-4 NMSA 1978 (being Laws 2007,
10 Chapter 40, Section 4) is amended to read:

11 "44-9-4. INVESTIGATION BY THE ATTORNEY GENERAL--
12 DELEGATION--CIVIL ACTION.--

13 A. To the extent the attorney general deems
14 appropriate, the attorney general shall diligently investigate
15 suspected violations of Section [~~3 of the Fraud Against~~
16 ~~Taxpayers Act]~~ 44-9-3 NMSA 1978, and if the attorney general
17 finds that a person has violated or is violating that section,
18 the attorney general may bring a civil action against that
19 person pursuant to the Fraud Against Taxpayers Act.

20 B. The attorney general may in appropriate cases
21 delegate the authority to investigate or to bring a civil
22 action to the state agency to which a false claim was made, and
23 when this occurs, the state agency shall have every power
24 conferred upon the attorney general pursuant to the Fraud
25 Against Taxpayers Act."

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1 SECTION 5. Section 44-9-5 NMSA 1978 (being Laws 2007,
2 Chapter 40, Section 5) is amended to read:

3 "44-9-5. CIVIL ACTION BY QUI TAM PLAINTIFF--STATE MAY
4 INTERVENE.--

5 A. A person may bring a civil action for a
6 violation of Section [~~3 of the Fraud Against Taxpayers Act~~]
7 44-9-3 NMSA 1978 on behalf of the person and the state. The
8 action shall be brought in the name of the state. The person
9 bringing the action shall be referred to as the qui tam
10 plaintiff. Once filed, the action may be dismissed only with
11 the written consent of the court, taking into account the best
12 interest of the parties involved and the public purposes behind
13 the Fraud Against Taxpayers Act.

14 B. A complaint filed by a qui tam plaintiff shall
15 be filed in camera in district court and shall remain under
16 seal for at least sixty days. No service shall be made on a
17 defendant, and no response is required from a defendant until
18 the seal has been lifted and the complaint served pursuant to
19 the rules of civil procedure.

20 C. On the same day as the complaint is filed, the
21 qui tam plaintiff shall serve the attorney general with a copy
22 of the complaint and written disclosure of substantially all
23 material evidence and information the qui tam plaintiff
24 possesses. The attorney general on behalf of the state may
25 intervene and proceed with the action within sixty days after

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1 receiving the complaint and the material evidence and
2 information. Upon a showing of good cause and reasonable
3 diligence in the state's investigation, the state may move the
4 court for an extension of time during which the complaint shall
5 remain under seal; provided that extensions of time shall not
6 exceed an additional one hundred twenty days without the
7 consent of the qui tam plaintiff.

8 D. Before the expiration of the sixty-day period or
9 any extensions of time granted by the court, the attorney
10 general shall notify the court that the state:

11 (1) intends to intervene and proceed with the
12 action; in which case, the seal shall be lifted and the action
13 shall be conducted by the attorney general on behalf of the
14 state; or

15 (2) declines to take over the action; in which
16 case, the seal shall be lifted and the qui tam plaintiff may
17 proceed with the action.

18 E. If the state has not intervened and proceeded
19 with the action within one hundred eighty days after receiving
20 the complaint, the qui tam plaintiff may deem the state's
21 inaction to be a declination to act and elect to proceed with
22 the action as provided in Paragraph (2) of Subsection D of this
23 section.

24 [~~E.~~] F. When a person brings an action pursuant to
25 this section, no person other than the attorney general on

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1 behalf of the state may intervene or bring a related action
2 based on the facts underlying the pending action."

3 **SECTION 6.** Section 44-9-6 NMSA 1978 (being Laws 2007,
4 Chapter 40, Section 6) is amended to read:

5 "44-9-6. RIGHTS OF THE QUI TAM PLAINTIFF AND THE STATE.--

6 A. If the state proceeds with the action, it shall
7 have the primary responsibility of prosecuting the action and
8 shall not be bound by an act of the qui tam plaintiff. The qui
9 tam plaintiff shall have the right to continue as a party to
10 the action, subject to the limitations of this section.

11 B. If the state proceeds with the action and
12 asserts other statutory or common law claims against the
13 defendant and the additional claims are based on allegations or
14 information provided by the qui tam plaintiff, the qui tam
15 plaintiff's award shall be as provided in Section 44-9-7 NMSA
16 1978 for any recovery based on the additional claims. The
17 state shall be entitled to an award of attorney fees and costs
18 as provided in Section 44-9-7 NMSA 1978 in any successful
19 action based on the additional statutory or common law claims.

20 [~~B-~~] C. The state may seek to dismiss the action
21 for good cause notwithstanding the objections of the qui tam
22 plaintiff if the qui tam plaintiff has been notified of the
23 filing of the motion and the court has provided the qui tam
24 plaintiff with an opportunity to oppose the motion and to
25 present evidence at a hearing.

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1 ~~[G-]~~ D. The state may settle the action with the
2 defendant notwithstanding any objection by the qui tam
3 plaintiff if the court determines, after a hearing providing
4 the qui tam plaintiff an opportunity to present evidence, that
5 the proposed settlement is fair, adequate and reasonable under
6 all of the circumstances.

7 ~~[D-]~~ E. Upon a showing by the state that
8 unrestricted participation during the course of the litigation
9 by the qui tam plaintiff would interfere with or unduly delay
10 the state's prosecution of the case, or would be repetitious,
11 irrelevant or for the purpose of harassment, the court may, in
12 its discretion, impose limitations on the qui tam plaintiff's
13 participation, such as:

- 14 (1) limiting the number of witnesses the qui
15 tam plaintiff may call;
- 16 (2) limiting the length of testimony of such
17 witnesses;
- 18 (3) limiting the qui tam plaintiff's cross
19 examination of witnesses; or
- 20 (4) otherwise limiting the qui tam plaintiff's
21 participation in the litigation.

22 ~~[E-]~~ F. Upon a showing by a defendant that
23 unrestricted participation during the course of litigation by
24 the qui tam plaintiff would be for purposes of harassment or
25 would cause the defendant undue burden or unnecessary expense,

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1 the court may limit the participation by the qui tam plaintiff
2 in the litigation.

3 ~~[F-]~~ G. If the state elects not to proceed with the
4 action, the qui tam plaintiff shall have the right to conduct
5 the action. If the attorney general so requests, the qui tam
6 plaintiff shall serve the attorney general with copies of all
7 pleadings filed in the action and all deposition transcripts in
8 the case, at the state's expense. When the qui tam plaintiff
9 proceeds with the action, the court, without limiting the
10 status and rights of the qui tam plaintiff, may permit the
11 attorney general to intervene at a later date upon a showing of
12 good cause.

13 ~~[G-]~~ H. Whether or not the state proceeds with the
14 action, upon a showing by the attorney general on behalf of the
15 state that certain actions of discovery by the qui tam
16 plaintiff would interfere with the state's investigation or
17 prosecution of a criminal or civil matter arising out of the
18 same facts, the court may stay such discovery for a period of
19 not more than sixty days. The showing by the state shall be
20 conducted in camera. The court may extend the sixty-day period
21 upon a further showing in camera that the state has pursued the
22 criminal or civil investigation or proceeding with reasonable
23 diligence and any proposed discovery in the civil action will
24 interfere with the ongoing criminal or civil investigation or
25 proceeding.

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1 [~~H.~~] I. Notwithstanding the provisions of Section
2 [~~5 of the Fraud Against Taxpayers Act~~] 44-9-5 NMSA 1978, the
3 attorney general may elect to pursue the state's claim through
4 any alternate remedy available to the state, including an
5 administrative proceeding to determine a civil money penalty.
6 If an alternate remedy is pursued, the qui tam plaintiff shall
7 have the same rights in such a proceeding as the qui tam
8 plaintiff would have had if the action had continued pursuant
9 to this section. A finding of fact or conclusion of law made
10 in the other proceeding that has become final shall be
11 conclusive on all parties to an action under the Fraud Against
12 Taxpayers Act. For purposes of this subsection, a finding or
13 conclusion is final if it has been finally determined on appeal
14 to the appropriate court, if all time for filing an appeal with
15 respect to the finding or conclusion has expired or if the
16 finding or conclusion is not subject to judicial review."

17 **SECTION 7.** Section 44-9-7 NMSA 1978 (being Laws 2007,
18 Chapter 40, Section 7) is amended to read:

19 "44-9-7. AWARDS TO QUI TAM PLAINTIFF AND THE STATE.--

20 A. Except as otherwise provided in this section, if
21 the state proceeds with an action brought by a qui tam
22 plaintiff and the state prevails in the action, the qui tam
23 plaintiff shall receive:

24 (1) at least fifteen percent but not more than
25 twenty-five percent of the proceeds of the action or

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1 settlement, depending upon the extent to which the qui tam
2 plaintiff substantially contributed to the prosecution of the
3 action; or

4 (2) no more than ten percent of the proceeds
5 of the action or settlement if the court finds that the action
6 was based primarily on disclosures of specific information, not
7 provided by the qui tam plaintiff, relating to allegations or
8 transactions in a criminal, civil, administrative or
9 legislative hearing, proceeding, report, audit or investigation
10 or from the news media, taking into account the significance of
11 the information and the role of the qui tam plaintiff in
12 advancing the case to litigation. However, if the attorney
13 general determines and certifies in writing that the qui tam
14 plaintiff provided a significant contribution in advancing the
15 case, then the qui tam plaintiff shall receive the share of
16 proceeds set forth in Paragraph (1) of this subsection.

17 B. If the state does not proceed with an action
18 brought by a qui tam plaintiff and the state prevails in the
19 action, the qui tam plaintiff shall receive an amount that is
20 not less than twenty-five percent or more than thirty percent
21 of the proceeds of the action or settlement, as the court deems
22 reasonable for collecting the civil penalty and damages.

23 C. Whether or not the state proceeds with an action
24 brought by a qui tam plaintiff:

25 (1) if the court finds that the action was

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1 brought by a person that planned or initiated the violation of
2 Section [~~3 of the Fraud Against Taxpayers Act~~] 44-9-3 NMSA 1978
3 upon which the action was based, the court may reduce the share
4 of the proceeds that the person would otherwise receive under
5 Subsection A or B of this section, taking into account the role
6 of the person as the qui tam plaintiff in advancing the case to
7 litigation and any relevant circumstances pertaining to the
8 violation; or

9 (2) if the person bringing the action is
10 convicted of criminal conduct arising from that person's role
11 in the violation of Section [~~3 of the Fraud Against Taxpayers~~
12 ~~Act~~] 44-9-3 NMSA 1978 upon which the action was based, that
13 person shall be dismissed from the civil action and shall not
14 receive a share of the proceeds. The dismissal shall not
15 prejudice the right of the state to continue the action.

16 D. Any award to a qui tam plaintiff shall be paid
17 out of the proceeds of the action or settlement, if any. The
18 qui tam plaintiff shall also receive an amount for reasonable
19 expenses incurred in the action plus reasonable attorney fees
20 that shall be paid by the defendant.

21 E. The state is entitled to all proceeds collected
22 in an action or settlement not awarded to a qui tam plaintiff.
23 The state is also entitled to reasonable expenses incurred in
24 the action plus reasonable attorney fees, including the fees of
25 the attorney general or state agency counsel that shall be paid

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1 by the defendant. Proceeds and penalties collected by the
2 state shall be deposited as follows:

3 (1) proceeds in the amount of the false claim
4 paid and attorney fees and costs shall be returned to the fund
5 or funds from which the money, property or services came and
6 attorney fees and costs provided by the office of the attorney
7 general shall be paid to the office of the attorney general;

8 (2) civil penalties shall be deposited in the
9 current school fund pursuant to Article 12, Section 4 of the
10 constitution of New Mexico; and

11 (3) all remaining proceeds shall be deposited
12 as follows:

13 (a) one-half into a fund for the use of
14 the office of the attorney general to provide staffing for
15 cases arising pursuant to the Fraud Against Taxpayers Act in
16 furtherance of the obligations imposed upon that office by [~~the~~
17 ~~Fraud Against Taxpayers~~] that act; and

18 (b) one-half into the general fund."

19 SECTION 8. Section 44-9-9 NMSA 1978 (being Laws 2007,
20 Chapter 40, Section 9) is amended to read:

21 "44-9-9. CERTAIN ACTIONS BARRED--INFORMATION SOURCE--

22 A. No court shall have jurisdiction over an action
23 brought pursuant to Section [~~5 of the Fraud Against Taxpayers~~
24 ~~Act~~] 44-9-5 NMSA 1978 by a present or former employee of the
25 state unless the employee, during employment with the state and

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1 in good faith, exhausted existing internal procedures for
2 reporting false claims and the state failed to act on the
3 information provided within a reasonable period of time.

4 B. No court shall have jurisdiction over an action
5 brought pursuant to Section [~~5 of the Fraud Against Taxpayers~~
6 ~~Act~~] 44-9-5 NMSA 1978 against an elected or appointed state
7 official, a member of the state legislature or a member of the
8 judiciary if the action is based on evidence or information
9 known to the state agency to which the false claim was made or
10 to the attorney general when the action was filed.

11 C. Unless the attorney general determines and
12 certifies in writing that the action is in the interest of the
13 state, no court shall have jurisdiction over an action brought
14 pursuant to Section [~~5 of the Fraud Against Taxpayers Act~~]
15 44-9-5 NMSA 1978 when that action is based on allegations or
16 transactions that are the subject of a criminal, civil or
17 administrative proceeding in which the state is a party.

18 D. Upon motion of the attorney general, a court
19 may, in its discretion, dismiss an action brought pursuant to
20 Section [~~5 of the Fraud Against Taxpayers Act~~] 44-9-5 NMSA 1978
21 if the elements of the alleged false or fraudulent claim by the
22 defendant have been publicly disclosed in a federal or state
23 criminal, civil or public administrative proceeding, in the
24 news media or in a publicly disseminated governmental report at
25 the time the complaint is filed, unless the person bringing the

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1 action is an original source of the information on which the
2 action brought pursuant to Section 44-9-5 NMSA 1978 is based."

3 SECTION 9. A new section of the Fraud Against Taxpayers
4 Act is enacted to read:

5 "[NEW MATERIAL] CIVIL INVESTIGATIVE DEMAND.--

6 A. Whenever the attorney general has reason to
7 believe that any person may be in possession, custody or
8 control of an original or copy of any book, record, report,
9 memorandum, paper, communication, tabulation, map, chart,
10 photograph, mechanical transcription or other tangible document
11 or recording that the attorney general believes to be relevant
12 to the subject matter of an investigation of a probable
13 violation of the Fraud Against Taxpayers Act, the attorney
14 general may, prior to the institution of a civil proceeding,
15 execute in writing and cause to be served upon the person a
16 civil investigative demand requiring that person to produce
17 documentary material and permit the inspection and copying of
18 the material. The demand of the attorney general shall not be
19 a matter of public record and shall not be published by the
20 attorney general except by court order.

21 B. A civil investigative demand shall:

22 (1) state the general subject matter of the
23 investigation;

24 (2) describe with reasonable certainty the
25 classes of documentary material to be produced;

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1 (3) prescribe the return date within which the
2 documentary material is to be produced, which in no case shall
3 be less than ten days after the date of service; and

4 (4) identify the members of the attorney
5 general's staff to whom such documentary material is to be made
6 available for inspection and copying.

7 C. A civil investigative demand shall not:

8 (1) contain any requirement that would be
9 unreasonable or improper if contained in a subpoena duces tecum
10 issued by a court of this state;

11 (2) require the disclosure of any documentary
12 material that would be privileged or for any other reason would
13 not be required by a subpoena duces tecum issued by a court of
14 this state; or

15 (3) require the removal of any documentary
16 material from the custody of the person upon whom the demand is
17 served except in accordance with the provisions of Subsection E
18 of this section.

19 D. Service of a civil investigative demand may be
20 made by:

21 (1) delivering a duly executed copy of the
22 demand to the person to be served, or if the person is not a
23 natural person, to the statutory agent for the person or an
24 officer of the person to be served;

25 (2) delivering a duly executed copy of the

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1 demand to the principal place of business in this state of the
2 person to be served; or

3 (3) mailing by registered or certified mail a
4 duly executed copy of the demand addressed to the person to be
5 served at the person's principal place of business in this
6 state, or, if the person has no place of business in this
7 state, to the person's principal office or place of business.

8 E. Documentary material demanded pursuant to this
9 section shall be produced for inspection and copying during
10 normal business hours at the principal office or place of
11 business of the person served or may be inspected and copied at
12 such other times and places as may be agreed upon by the person
13 served and the attorney general.

14 F. Except as provided in Subsection G of this
15 section, no documentary material produced pursuant to a civil
16 investigative demand, or copies of that material, shall be
17 produced for inspection or copying by anyone other than an
18 authorized employee of the attorney general, nor shall the
19 contents thereof be disclosed to anyone other than an
20 authorized employee of the attorney general.

21 G. Documentary material produced pursuant to a
22 civil investigative demand, or copies of that material, may be
23 produced for inspection or copying:

24 (1) to other state attorneys general for the
25 purposes of investigation into the particular action in which

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1 the civil investigation demand was served;

2 (2) to federal, state and other law
3 enforcement agencies; or

4 (3) to the qui tam plaintiff.

5 H. At any time before the return date of a civil
6 investigative demand, a petition to set aside or modify the
7 demand or extend the return date set forth in the demand may be
8 filed in the district court in the county in which the person
9 resides or has a principal place of business, and the court
10 upon a showing of good cause may set aside or modify the demand
11 or extend the return date of the demand.

12 I. After service of the civil investigative demand
13 upon a person, if that person neglects or refuses to comply
14 with the demand, the attorney general may invoke the aid of the
15 court in the enforcement of the demand. In appropriate cases,
16 the court shall issue its order requiring the person to appear
17 and produce the documentary material required in the demand and
18 may, upon failure of the person to comply with the order,
19 punish the person for contempt."

20 SECTION 10. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.

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