1 A bill to be entitled
2 An act relating to insurer anti-fraud efforts;
3 reordering and amending s. 626.9891, F.S.; creating a
4 definition; requiring every insurer to designate at
5 least one primary anti-fraud employee for certain
6 purposes; requiring insurers to adopt an anti-fraud
7 plan; revising insurer requirements in providing anti-
8 fraud information to the Department of Financial
9 Services; requiring anti-fraud unit descriptions,
10 anti-fraud plans, names of certain employees, and
11 fraud data to be filed annually with the department;
12 revising the information to be provided by insurers
13 who write workers' compensation insurance; requiring
14 each insurer to provide annual anti-fraud education
15 and training; requiring insurers who submit an
16 application for a certificate of authority after a
17 specified date to comply with the section; providing
18 penalties for failure to comply with requirements of
19 the section; creating s. 626.9896, F.S.; creating a
20 grant program to fund the dedicated insurance fraud
21 prosecutor program within the department; requiring
22 moneys that are appropriated for the program be used
23 to fund specific attorney and paralegal positions;
24 specifying procedures to be used by state attorneys’
25 offices when applying for biennial grants; specifying

26 that grants are for two years but authorizing the
27 division to renew the grants; specifying procedures to
28 be used by the department in awarding grant funds;
29 requiring the Division of Investigative and Forensic
30 Services to provide an annual report to the Executive
31 Office of the Governor, the Speaker of the House of
32 Representatives, and the Senate President; specifying
33 information to be contained in the report; authorizing
34 the department to adopt rules to administer and
35 implement the insurance fraud dedicated prosecutor
36 program; amending s. 641.3915, F.S.; deleting obsolete
37 provisions; providing an effective date.
38
39 Be It Enacted by the Legislature of the State of Florida:
40
41 Section 1. Section 626.9891, Florida Statutes, is
42 reordered and amended to read:
43 626.9891 Insurer anti-fraud investigative units; reporting
44 requirements; penalties for noncompliance.—
45 (1)~~(5)~~ As used in ~~For purposes of~~ this section, the term:
46 (a) "Designated anti-fraud unit or division" includes a
47 distinct unit or division, or a unit or division made up of ~~the~~
48 ~~assignment of fraud investigation to~~ employees whose principal
49 responsibilities are the investigation and disposition of claims
50 who are also assigned investigation of fraud. ~~If an insurer~~

51 ~~creates a distinct unit or division, hires additional employees,~~
52 ~~or contracts with another entity to fulfill the requirements of~~
53 ~~this section, the additional cost incurred must be included as~~
54 ~~an administrative expense for ratemaking purposes.~~
55 (b) "Anti-fraud investigative unit" means the designated
56 anti-fraud unit or division, or contractor authorized under
57 subparagraph (2)(a) 2.
58 (2) ~~(1)~~ By December 31, 2017, every insurer admitted to do
59 business in this state ~~who in the previous calendar year, at any~~
60 ~~time during that year, had $10 million or more in direct~~
61 ~~premiums written~~ shall:
62 (a)
63 1. Establish and maintain a designated anti-fraud unit or
64 division within the company to investigate and report possible
65 fraudulent insurance acts ~~claims~~ by insureds or by persons
66 making claims for services or repairs against policies held by
67 insureds; or
68 2. ~~(b)~~ Contract with others to investigate and report
69 possible fraudulent insurance acts by insureds or by persons
70 making claims for services or repairs against policies held by
71 insureds.
72 (b) Adopt an anti-fraud plan.
73 (c) Designate at least one employee with primary
74 responsibility for implementing the requirements of this
75 section.

76 (d) Electronically ~~An insurer subject to this subsection~~
77 ~~shall~~ file with the Division of Investigative and Forensic
78 Services of the department, and annually thereafter ~~on or before~~
79 ~~July 1, 1996~~, a detailed description of the designated anti-
80 fraud unit or division ~~established pursuant to paragraph (a)~~ or
81 a copy of the contract executed pursuant to subparagraph (a)2.,
82 as applicable; a copy of the anti-fraud plan; and the name of
83 the employee designated pursuant to paragraph (c) ~~and related~~
84 ~~documents required by paragraph (b)~~.
85
86 An insurer must include the additional cost incurred to create a
87 distinct unit or division, hire additional employees, or
88 contract with another entity to fulfill the requirements of this
89 section as an administrative expense for ratemaking purposes.
90
91 ~~(2) Every insurer admitted to do business in this state,~~
92 ~~which in the previous calendar year had less than $10 million in~~
93 ~~direct premiums written, must adopt an anti-fraud plan and file~~
94 ~~it with the Division of Investigative and Forensic Services of~~
95 ~~the department on or before July 1, 1996. An insurer may, in~~
96 ~~lieu of adopting and filing an anti-fraud plan, comply with the~~
97 ~~provisions of subsection (1).~~
98 (3) Each ~~insurers~~ anti-fraud plan must ~~plans shall~~ include:
99 (a) An acknowledgement that the insurer has established
100 procedures for detecting and investigating possible fraudulent

101 insurance acts relating to the different types of insurance by
102 that insurer ~~A description of the insurer's procedures for~~
103 ~~detecting and investigating possible fraudulent insurance acts~~;
104 (b) An acknowledgment that the insurer has established ~~A~~
105 ~~description of the insurer's~~ procedures for the mandatory
106 reporting of possible fraudulent insurance acts to the Division
107 of Investigative and Forensic Services of the department;
108 (c) An acknowledgement that the insurer provides the ~~A~~
109 ~~description of the insurer's plan for~~ anti-fraud education and
110 training required by this section to the anti-fraud
111 investigative unit ~~of its claims adjusters or other personnel~~;
112 ~~and~~
113 (d) A description of the required anti-fraud education and
114 training;
115 (e) A ~~written~~ description or chart ~~outlining~~ ~~the~~
116 ~~organizational arrangement~~ of the insurer's anti-fraud
117 investigative unit, including the position titles and
118 descriptions of staffing ~~personnel who are responsible for the~~
119 ~~investigation and reporting of possible fraudulent insurance~~
120 ~~acts~~; and
121 (f) The rationale for the level of staffing and resources
122 being provided for the anti-fraud investigative unit which may
123 include objective criteria, such as the number of policies
124 written, the number of claims received on an annual basis, the
125 volume of suspected fraudulent claims detected on an annual

126 basis, an assessment of the optimal caseload that one
127 investigator can handle on an annual basis, and other factors.
128 (4) By December 31, 2018, each insurer shall provide staff
129 of the anti-fraud investigative unit at least 2 hours of initial
130 anti-fraud training that is designed to assist in identifying
131 and evaluating instances of suspected fraudulent insurance acts
132 in underwriting or claims activities. Annually thereafter, an
133 insurer shall provide such employees a 1-hour course that
134 addresses detection, referral, investigation, and reporting of
135 possible fraudulent insurance acts for the types of insurance
136 lines written by the insurer.
137 (5) Each insurer is required to report data related to
138 fraud for each line of insurance written by the insurer during
139 the prior calendar year. The data shall be reported to the
140 department by March 1, 2019, and annually thereafter. Such data
141 must include, at a minimum:
142 (a) The number of policies in effect;
143 (b) The amount of premiums written for policies;
144 (c) The number of claims received;
145 (d) The number of claims referred to the anti-fraud
146 investigative unit;
147 (e) The number of other insurance fraud matters referred
148 to the anti-fraud investigative unit that were not claim
149 related;
150 (f) The number of claims investigated or accepted by the

151 anti-fraud investigative unit;
152 (g) The number of other insurance fraud matters
153 investigated or accepted by the anti-fraud investigative unit
154 that were not claim related;
155 (h) The number of cases referred to the Division of
156 Investigative and Forensic Services;
157 (i) The number of cases referred to other law enforcement
158 agencies;
159 (j) The number of cases referred to other entities; and
160 (k) The estimated dollar amount or range of damages on
161 cases referred to the Division of Investigative and Forensic
162 Services or other agencies.
163 (6) In addition to the requirements under subsections (2),
164 (4), and (5), each insurer writing workers' compensation
165 insurance shall also report the following information to the
166 department, on or before March 1, 2019 and annually thereafter
167 August 1 of each year, on its experience in implementing and
168 maintaining an anti-fraud investigative unit or an anti-fraud
169 plan. The report must include, at a minimum:
170 (a) The estimated dollar amount of losses attributable to
171 workers' compensation fraud delineated by the type of fraud,
172 including claimant, employer, provider, agent, or other type.
173 (b) The estimated dollar amount of recoveries attributable
174 to workers' compensation fraud delineated by the type of fraud,
175 including claimant, employer, provider, agent, or other type.

176 (c) The number of cases referred to the Division of
177 Insurance and Forensic Services, delineated by the type of
178 fraud, including claimant, employer, provider, agent, or other
179 type.
180 ~~(a) The dollar amount of recoveries and losses~~
181 ~~attributable to workers' compensation fraud delineated by the~~
182 ~~type of fraud: claimant, employer, provider, agent, or other.~~
183 ~~(b) The number of referrals to the Bureau of Workers'~~
184 ~~Compensation Fraud for the prior year.~~
185 ~~(c) A description of the organization of the anti-fraud~~
186 ~~investigative unit, if applicable, including the position titles~~
187 ~~and descriptions of staffing.~~
188 ~~(d) The rationale for the level of staffing and resources~~
189 ~~being provided for the anti-fraud investigative unit, which may~~
190 ~~include objective criteria such as number of policies written,~~
191 ~~number of claims received on an annual basis, volume of~~
192 ~~suspected fraudulent claims currently being detected, other~~
193 ~~factors, and an assessment of optimal caseload that can be~~
194 ~~handled by an investigator on an annual basis.~~
195 ~~(e) The inservice education and training provided to~~
196 ~~underwriting and claims personnel to assist in identifying and~~
197 ~~evaluating instances of suspected fraudulent activity in~~
198 ~~underwriting or claims activities.~~
199 ~~(f) A description of a public awareness program focused on~~
200 ~~the costs and frequency of insurance fraud and methods by which~~

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201 ~~the public can prevent it~~.
202 (7)~~(4)~~ An ~~Any~~ insurer who obtains a certificate of
203 authority ~~after July 1, 1995,~~ shall have 6 ~~18~~ months in which to
204 comply with subsection (2), and one calendar year, thereafter,
205 to comply with subsections (4), (5), and (6) ~~the requirements of~~
206 ~~this section~~.
207 (8)~~(7)~~ If an insurer fails ~~to timely submit a final~~
208 ~~acceptable anti-fraud plan or anti-fraud investigative unit~~
209 ~~description, fails to implement the provisions of a plan or an~~
210 ~~anti-fraud investigative unit description,~~ or otherwise refuses
211 to comply with the provisions of this section, the department,
212 office, or commission may:
213 (a) Impose an administrative fine of not more than $2,000
214 per day for such failure ~~by an insurer to submit an acceptable~~
215 ~~anti-fraud plan or anti-fraud investigative unit description,~~
216 until the department, office, or commission deems the insurer to
217 be in compliance;
218 (b) Impose an administrative fine for failure by an
219 insurer to implement or follow the provisions of an anti-fraud
220 plan or anti-fraud investigative unit description; or
221 (c) Impose the provisions of both paragraphs (a) and (b).
222 (10)~~(8)~~ The department may adopt rules to administer this
223 section.
224 Section 2. Section 626.9896, Florida Statutes, is created
225 to read:

226 626.9896 Dedicated Insurance Fraud Prosecutor Program.—
227 (1) LEGISLATIVE INTENT.—The Legislature recognizes the
228 increasing problem of insurance fraud, the need to adequately
229 investigate and prosecute insurance fraud, and the need to
230 create a program dedicated to the prosecution of insurance
231 fraud. The Legislature recognizes that the Division of
232 Investigative and Forensic Services of the department can
233 efficiently and effectively implement and monitor such a
234 program, and can direct and reallocate resources as insurance
235 fraud trends change and demand for prosecutorial resources shift
236 between judicial circuits.
237 (2) ESTABLISHMENT OF THE INSURANCE FRAUD DEDICATED
238 PROSECUTOR PROGRAM.—There is created within the department a
239 grant program to fund the Insurance Fraud Dedicated Prosecutor
240 Program. The purpose of the program is to provide grants to
241 state attorneys' offices to fund attorney and paralegal
242 positions that are dedicated exclusively to the prosecution of
243 insurance fraud. The program shall consist only of funds
244 appropriated by the state specifically for this program.
245 (3) GRANT APPLICATIONS.—Beginning in 2018, a state
246 attorney's office seeking grant funds must submit an application
247 to the Division of Investigative and Forensic Services detailing
248 the proposed number of dedicated prosecutors and paralegals
249 requested for the prosecution of insurance fraud. Applications
250 must be received by July 1 of each even numbered year and shall

251 identify funding needs for 2 years. Grant awards are contingent
252 upon legislative appropriation in the Insurance Regulatory Trust
253 Fund and Workers Compensation Trust Fund and subject to renewal
254 by the department. The division must compile and review the
255 timely submitted applications to establish its legislative
256 budget request for the program for the upcoming two years.
257 (4) AWARD OF GRANTS.—The division is authorized to award
258 grants to state attorneys' offices using a formula adopted by
259 rule of the department and based on metrics and data compiled by
260 the division which allocate funds to the judicial circuits based
261 on trends in insurance fraud and the performance and output
262 measures reported as required by this section. A grant awarded
263 to a state attorney's office may only be used to fund attorney
264 and paralegal positions that are dedicated exclusively to the
265 prosecution of insurance fraud. Grants are subject to the
266 provisions of s. 215.971. The division shall establish the
267 annual maximum grant amount, based on funds appropriated to the
268 department for funding the Insurance Fraud Dedicated Prosecutor
269 Program.
270 (5) REPORTING.—The division must track and report on the
271 effectiveness and efficiency of each state attorney's office's
272 use of the awarded grant funds. Each state attorney's office
273 that is awarded a grant under this section is required to submit
274 performance and output information as determined by the division
275 for completion of the report. The report must be provided to the

276 Executive Office of the Governor, the Speaker of the House of
277 Representatives, and the President of the Senate by September 1,
278 2020 and annually, thereafter. The report must include, but is
279 not limited to, the following:
280 (a) The amount of grant funds received and expended by
281 each state attorney's office;
282 (b) A description of the purposes for which the funds were
283 expended, including payment of salaries, expenses, and any other
284 costs needed to support the delivery of services;
285 (c) The results achieved from the expenditures made,
286 including the number of complaints filed, the number of
287 investigations initiated, the number of arrests made, the number
288 of convictions, and the amount of any restitution or fines paid
289 resulting from the cases presented for prosecution.
290 (6) RULES.—The department may adopt rules pursuant to ss.
291 120.536(1) and 120.54 for the administration and implementation
292 of the Insurance Fraud Dedicated Prosecutor Program. Such rules
293 may establish procedures for the Insurance Fraud Dedicated
294 Prosecutor Program, including forms to be used by the state
295 attorney's offices. The department may establish a formula for
296 allocating grant funds, eligibility criteria, renewal
297 requirements, and standards for evaluating the effectiveness and
298 efficiency of expended funds.
299 Section 3. Section 641.3915, Florida Statutes, is amended
300 to read:

301 641.3915 Health maintenance organization anti-fraud plans
302 and investigative units.—Each authorized health maintenance
303 organization and applicant for a certificate of authority shall
304 comply with the provisions of ss. 626.989 and 626.9891 as though
305 such organization or applicant were an authorized insurer. ~~For~~
306 ~~purposes of this section, the reference to the year 1996 in s.~~
307 ~~626.9891 means the year 2000 and the reference to the year 1995~~
308 ~~means the year 1999.~~
309 Section 4. This act shall take effect September 1, 2017.

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