SECTION 10. Not later than January 1, 2014:

(1) the Commission on Law Enforcement Officer Standards and Education shall adopt the rules necessary to implement Subsection (k), Section 1701.402, Occupations Code, as added by this Act; and

(2) the Department of Public Safety of the State of Texas and the public safety director of the department shall adopt rules and forms necessary to implement Chapter 63, Code of Criminal Procedure, as amended by this Act.

SECTION 11. (a) The change in law made by this Act in adding Article 63.0091, Code of Criminal Procedure, applies to a missing child report that is received by a law enforcement agency on or after January 1, 2014.

(b) The change in law made by this Act in adding Subsection (a-1), Article 63.009, Code of Criminal Procedure, and amending Article 63.013, Code of Criminal Procedure, applies to an attempted child abduction that is reported to a law enforcement agency on or after January 1, 2014.

SECTION 12. This Act takes effect September 1, 2013.

Passed the Senate on April 4, 2013: Yeas 31, Nays 0; the Senate concurred in House amendments on May 20, 2013: Yeas 31, Nays 0; passed the House, with amendments, on May 15, 2013: Yeas 140, Nays 1, two present not voting.

Approved June 14, 2013.

Effective September 1, 2013.

CHAPTER 572

S.B. No. 746

AN ACT
relating to unlawful acts against and criminal offenses involving the Medicaid program.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 36.002, Human Resources Code, is amended to read as follows:

Sec. 36.002. UNLAWFUL ACTS. A person commits an unlawful act if the person:

(1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;

(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:

(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:

(i) a hospital;
(ii) a nursing facility or skilled nursing facility;
(iii) a hospice;
(iv) an intermediate care facility for the mentally retarded;
(v) an assisted living facility; or

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(vi) a home health agency; or

(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;

(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;

(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:

(A) is not licensed to provide the product or render the service, if a license is required; or

(B) is not licensed in the manner claimed;

(7) knowingly makes or causes to be made a claim under the Medicaid program for:

(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;

(B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or

(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;

(8) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;

(9) conspires to commit a violation of Subdivision (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), or (13); or

(10) is a managed care organization that contracts with the Health and Human Services Commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;

(B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or

(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization’s managed care plan or in connection with marketing the organization’s services to an individual eligible under the Medicaid program;

(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section;

(12) knowingly makes, uses, or causes the making or use of a false record or statement material to [conceal, avoid, or decrease] an obligation to pay or transmit money or property to this state under the Medicaid program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to this state under the Medicaid program; or

(13) knowingly engages in conduct that constitutes a violation under Section 32.039(b).

SECTION 2. Section 36.104, Human Resources Code, is amended by amending Subsection (b) and adding Subsection (b-i) to read as follows:

(b) If the state declines to take over the action, the person bringing the action may proceed without the state’s participation. A person proceeding under this subsection may recover for an unlawful act for a period of up to six years before the date the lawsuit was filed, or for a period beginning when the unlawful act occurred until up to three years from the date the
(b) The court shall dismiss [A person may not bring] an action or claim under this subsection, unless opposed by the attorney general, if substantially the same [that is based on the public disclosure of] allegations or transactions as alleged in the action or claim were publicly disclosed in a Texas or federal criminal or civil hearing in which the state or an agent of the state is a party, in a Texas legislative or administrative report, or other Texas hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. In this subsection, “original source” means an individual who:

(1) prior to a public disclosure under this subsection, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based [has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action under this subchapter that is based on the information]; or

(2) has knowledge that is independent of and materially adds to the publicly disclosed allegation or transactions [allegations] and who has voluntarily provided the information to the state before filing an action under this subchapter [that is based on the information].

SECTION 5. Section 36.115, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person, including an employee, contractor, or agent, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person or associated others in furtherance of an action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this subchapter, or other efforts taken by the person to stop one or more violations of Section 36.002 is entitled to:

(1) reinstatement with the same seniority status the person would have had but for the discrimination; and
(2) not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.

(c) A person must bring suit on an action under this section not later than the third anniversary of the date on which the cause of action accrues. For purposes of this section, the cause of action accrues on the date the retaliation occurs.

SECTION 6. Subsection (c), Section 36.113, Human Resources Code, is repealed.

SECTION 7. The changes in law made by this Act to Section 36.002, Human Resources Code, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

SECTION 8. The changes in law made by this Act to Sections 36.110 and 36.113, Human Resources Code, as amended by this Act, commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9. The changes in law made by this Act to Section 36.115, Human Resources Code, apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2013.

Passed the Senate on April 11, 2013: Yeas 31, Nays 0; passed the House on May 17, 2013: Yeas 134, Nays 0, two present not voting.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 573

S.B. No. 747

AN ACT
relating to the term for the independent ombudsman for state supported living centers.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 555.053, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The governor shall appoint the independent ombudsman for a term of two years expiring February 1 of odd-numbered years.

(c) A person appointed as independent ombudsman may be reappointed.

SECTION 2. A person serving as the independent ombudsman on the effective date of this Act shall serve as the independent ombudsman until February 1, 2015, unless otherwise removed by the governor.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed the Senate on March 21, 2013: Yeas 31, Nays 0; passed the House on May 17, 2013: Yeas 134, Nays 0, two present not voting.

Approved June 14, 2013.
Effective June 14, 2013.