

# SENATE BILL No. 1020

June 8, 2016, Introduced by Senator BIEDA and referred to the Committee on Judiciary.

A bill to provide for remedies and prescribe civil sanctions against a person who presents a false or fraudulent claim to obtain money, property, or services from this state or a local unit of government; to prescribe the powers and duties of certain state and local government officers and agencies; to prohibit retaliation against a person who pursues a remedy under this act; and to authorize the attorney general to promulgate rules.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the "false  
2       claims act".

3       Sec. 2. As used in this act:

4       (a) "Claim" means, subject to subdivision (b), a request or  
5       demand, whether under a contract or otherwise, for money or  
6       property that is either of the following:

1           (i) Presented to an officer, employee, or agent of this state  
2 or a local government.

3           (ii) Made to a contractor, grantee, or other recipient, if the  
4 money or property is to be spent or used on behalf of this state or  
5 a local government or to advance a state or local government  
6 program or interest, and if either of the following applies:

7           (A) This state or a local government has provided or will  
8 provide any portion of the money or property that is requested or  
9 demanded.

10          (B) This state or a local government will reimburse the  
11 contractor, grantee, or other recipient for any portion of the  
12 money or property that is requested or demanded.

13          (b) "Claim" does not include a request or demand for money or  
14 property that this state or a local government has already paid to  
15 an individual as compensation for government employment or as an  
16 income subsidy with no restrictions on that individual's use of the  
17 money or property.

18          (c) "False claim" means any claim that is, either in whole or  
19 part, false or fraudulent.

20          (d) "Knowing" and "knowingly" mean, subject to subdivision  
21 (e), that 1 of the following applies to a person with respect to  
22 information:

23           (i) The person has actual knowledge of the information.

24           (ii) The person acts in deliberate ignorance of the truth or  
25 falsity of the information.

26           (iii) The person acts in reckless disregard of the truth or  
27 falsity of the information.

1 (e) "Knowing" and "knowingly" do not require proof of specific  
2 intent to defraud.

3 (f) "Local government" means county, city, township, village,  
4 school district, board of education, public benefit corporation, or  
5 other municipal corporation or political subdivision of this state  
6 or of a local government.

7 (g) "Material" means having a natural tendency to influence,  
8 or to be capable of influencing, the payment or receipt of money or  
9 property.

10 (h) "Obligation" means an established duty, whether or not  
11 fixed, arising from an express or implied contractual, grantor-  
12 grantee, or licensor-licensee relationship, from a fee-based or  
13 similar relationship, from statute or regulation, or from the  
14 retention of any overpayment.

15 (i) "Original source" means a person to whom either of the  
16 following applies:

17 (i) Before a public disclosure described in section 4(9)(b),  
18 the person has voluntarily disclosed to this state or a local  
19 government the information on which allegations or transactions in  
20 a cause of action are based.

21 (ii) The person has knowledge that is independent of and  
22 materially adds to the publicly disclosed allegations or  
23 transactions and has voluntarily provided the information to this  
24 state or a local government before or simultaneously with filing an  
25 action under this act.

26 (j) "Person" means a natural person, partnership, corporation,  
27 association, or other legal entity, other than this state or a

1 local government.

2 (k) "Qui tam plaintiff" means a person other than this state,  
3 the attorney general on behalf of this state, or a local government  
4 who brings or intervenes in an action brought under section 4(2).

5 (l) "This state" includes any state department, board, bureau,  
6 division, commission, committee, public benefit corporation, public  
7 authority, council, office, or other governmental entity that  
8 performs a governmental or proprietary function for this state.

9 Sec. 3. (1) Subject to subsection (2), a person who commits  
10 any of the following acts is liable to this state or a local  
11 government, as applicable, for a civil penalty of not less than  
12 \$6,000.00 and not more than \$12,000.00, plus 3 times the amount of  
13 all damages, including consequential damages, that this state or  
14 the local government sustains because of the acts of the person:

15 (a) Knowingly presents or causes to be presented a false or  
16 fraudulent claim for payment or approval.

17 (b) Knowingly makes, uses, or causes to be made or used a  
18 false record or statement material to a false or fraudulent claim.

19 (c) Conspires to commit a violation of subdivision (a), (b),  
20 (d), (e), (f), or (g).

21 (d) Has possession, custody, or control of property or money  
22 used, or to be used, by this state or a local government and  
23 knowingly delivers or causes to be delivered less than all of the  
24 money or property.

25 (e) Is authorized to make or deliver a document certifying  
26 receipt of property used or to be used by this state or a local  
27 government and, intending to defraud this state or the local

1 government, makes or delivers the receipt without completely  
2 knowing that the information on the receipt is true.

3 (f) Knowingly buys, or receives as a pledge of an obligation  
4 or debt, public property from an officer or employee of this state  
5 or a local government knowing that the officer or employee is  
6 violating the law by selling or pledging the property.

7 (g) Knowingly makes, uses, or causes to be made or used a  
8 false record or statement material to an obligation to pay or  
9 transmit money or property to this state or a local government, or  
10 knowingly conceals or knowingly and improperly avoids or decreases  
11 an obligation to pay or transmit money or property to this state or  
12 a local government.

13 (2) A court may assess not more than 2 times the amount of  
14 damages sustained because of an act of a person described in  
15 subsection (1), if the court finds that all of the following apply:

16 (a) The person furnished all information known to the person  
17 about the violation to the officials responsible for investigating  
18 false claims on behalf of this state or a local government that  
19 sustained damages within 30 days after the date on which the person  
20 first obtained the information.

21 (b) The person fully cooperated with any government  
22 investigation of the act.

23 (c) At the time the person furnished information about the  
24 act, a criminal prosecution, civil action, or administrative action  
25 had not been commenced with respect to the act, and the person did  
26 not have actual knowledge of the existence of an investigation into  
27 the act.

1           (3) A person who commits an act described in subsection (1) is  
2 also liable for the costs, including attorney fees, of a civil  
3 action brought to recover a penalty or damages under this section.

4           (4) This section applies to claims, records, or statements  
5 made under a tax law only if both of the following apply:

6           (a) The net income or sales of the person against whom the  
7 action is brought equal or exceed \$1,000,000.00 for a taxable year  
8 subject to an action brought under this section.

9           (b) The damages pleaded in the action exceed \$350,000.00.

10          (5) The attorney general shall consult with the state  
11 treasurer before filing or intervening in an action under this act  
12 that is based on the filing of false claims, records, or statements  
13 made under a tax law. If the attorney general declines to  
14 participate or to authorize participation by a local government in  
15 the action under section 4(2), the qui tam plaintiff shall obtain  
16 approval from the attorney general before making a motion to compel  
17 the department of treasury to disclose tax records.

18          Sec. 4. (1) The attorney general may investigate acts  
19 described in section 3(1). If the attorney general believes that a  
20 person has committed any of those acts, the attorney general may  
21 bring a civil action on behalf of the people of this state or on  
22 behalf of a local government against the person. A local government  
23 may also investigate acts described in section 3(1) that may have  
24 resulted in damages to the local government and may bring a civil  
25 action on its own behalf or on behalf of a subdivision of the local  
26 government to recover damages sustained by the local government as  
27 a result of the acts. An action may not be filed under this

1 subsection against the federal government, this state, or a local  
2 government or an officer or employee of the federal government,  
3 this state, or a local government acting in his or her official  
4 capacity. The attorney general shall consult with the Office of  
5 Inspector General of the United States Department of Health and  
6 Human Services before filing an action related to the Medicaid  
7 program.

8 (2) A person may bring a qui tam civil action for an act  
9 described in section 3(1) on behalf of the person and the people of  
10 this state or a local government. All of the following apply to an  
11 action under this subsection:

12 (a) A person shall not file an action under this subsection  
13 against the federal government, this state, or a local government  
14 or an officer or employee of the federal government, this state, or  
15 a local government acting in his or her official capacity.

16 (b) A copy of the complaint and written disclosure of  
17 substantially all material evidence and information the qui tam  
18 plaintiff possesses must be served on the attorney general. A  
19 complaint filed in a court of this state must be filed in the  
20 circuit court of any county in which the qui tam plaintiff or any  
21 defendant resides or has done or does any business, in camera and  
22 under seal, must remain under seal for at least 60 days, and must  
23 not be served on the defendant until the court so orders. The seal  
24 does not preclude the attorney general, a local government, or the  
25 qui tam plaintiff from serving the complaint, other pleadings, or  
26 the written disclosure of substantially all material evidence and  
27 information possessed by the qui tam plaintiff on relevant state or

1 local government agencies, or on law enforcement authorities of  
2 this state, a local government, or other jurisdictions or the  
3 federal government, so that the acts may be investigated or  
4 prosecuted, except that the seal applies to the agencies or  
5 authorities served to the same extent as the seal applies to other  
6 parties in the action. If the complaint alleges an act described in  
7 section 3(1) that involves damages to a local government, the  
8 attorney general may at any time provide a copy of the complaint  
9 and written disclosure to the attorney for the local government.  
10 However, if the allegations in the complaint involve damages only  
11 to a city with a population of 500,000 or more, or only to this  
12 state and a city with a population of 500,000 or more, the attorney  
13 general shall provide the complaint and written disclosure to the  
14 corporation counsel of the city within 30 days. The attorney  
15 general may elect to supersede or intervene and proceed with the  
16 action, or to authorize a local government that may have sustained  
17 damages to supersede or intervene, within 60 days after it receives  
18 both the complaint and the material evidence and information.  
19 However, if the allegations in the complaint involve damages only  
20 to a city with a population of 500,000 or more, the attorney  
21 general shall not supersede or intervene in the action without the  
22 consent of the corporation counsel of the city. The attorney  
23 general shall consult with the health care fraud division of the  
24 department of attorney general before superseding or intervening in  
25 an action related to the Medicaid program. The attorney general  
26 may, for good cause shown, move the court for extensions of the  
27 time during which the complaint remains under seal under this



1 subsection. The motion may be supported by affidavits or other  
2 submissions in camera.

3 (c) Before the expiration of the 60-day period or any  
4 extensions obtained under subdivision (b), the attorney general  
5 shall notify the court, and shall provide the local government with  
6 a copy of the notification at the same time the court is notified,  
7 that he or she intends to do 1 of the following:

8 (i) File a complaint against the defendant on behalf of the  
9 people of this state or a local government and by doing so be  
10 substituted as the plaintiff in the action and convert the action  
11 in all respects from an action under this subsection brought by a  
12 private person into a civil enforcement action by the attorney  
13 general under subsection (1).

14 (ii) Intervene in the action, as of right, so as to aid and  
15 assist the qui tam plaintiff in the action.

16 (iii) If the action involves damages sustained by a local  
17 government, grant the local government permission to do either of  
18 the following:

19 (A) File and serve a complaint against the defendant, and by  
20 doing so be substituted as the plaintiff in the action and convert  
21 the action in all respects from an action under this subsection  
22 brought by a private person into a civil enforcement action by the  
23 local government under subsection (1).

24 (B) Intervene in the action as of right, so as to aid and  
25 assist the qui tam plaintiff in the action.

26 (d) If the attorney general notifies the court that the  
27 attorney general intends to file a complaint against the defendant

1 and by doing so be substituted as the plaintiff in the action, or  
2 to permit a local government to do so, the complaint must be filed  
3 within 30 days after the notification to the court. For purposes of  
4 applying a statute of limitations, a complaint filed by the  
5 attorney general or a local government under this subdivision  
6 relates back to the filing date of the complaint of the qui tam  
7 plaintiff, to the extent that the cause of action of this state or  
8 the local government arises out of the conduct, transactions, or  
9 occurrences alleged or attempted to be alleged in the complaint of  
10 the qui tam plaintiff.

11 (e) If the attorney general notifies the court that the  
12 attorney general intends to intervene in the action, or to permit a  
13 local government to intervene, a motion for intervention must be  
14 filed within 30 days after the notification to the court.

15 (f) If the attorney general declines to participate in the  
16 action or to authorize participation by a local government, the  
17 action may proceed subject to judicial review under this section,  
18 law and court rules relating to civil procedure, and other  
19 applicable law. The qui tam plaintiff shall provide this state or a  
20 local government, if applicable, with a copy of any document filed  
21 with the court on or about the date it is filed and any order  
22 issued by the court on or about the date it is issued. A qui tam  
23 plaintiff shall notify this state or a local government, if  
24 applicable, within 5 business days of any decision, order, or  
25 verdict that results in a judgment in favor of this state or the  
26 local government.

27 (3) If the attorney general decides to participate in an

1 action under this section or to authorize the participation of a  
2 local government, the court shall order that the complaint be  
3 unsealed and served at the time the complaint or motion by this  
4 state or local government is filed. After the complaint is  
5 unsealed, or if a complaint is filed by this state or a local  
6 government under subsection (1), the defendant must be served with  
7 the complaint and summons under chapter 19 of the revised  
8 judicature act of 1961, 1961 PA 236, MCL 600.1901 to 600.1974. A  
9 copy of a complaint that alleges that damages were sustained by a  
10 local government must also be served on the local government. The  
11 defendant shall respond to the summons and complaint within the  
12 time required under the applicable court rules.

13 (4) After an action is filed under this section, a person  
14 other than the attorney general or an attorney for a local  
15 government acting under subsection (1) or (2)(b) shall not  
16 intervene in the action or bring a related civil action based on  
17 the facts underlying the action, unless the other person has first  
18 obtained the permission of the attorney general to intervene or to  
19 bring a related action. However, this subsection does not prohibit  
20 a person, with leave of court, from filing an amicus curiae brief.

21 (5) All of the following apply to an action under this  
22 section:

23 (a) If the attorney general elects to convert the action into  
24 an attorney general enforcement action, this state has the primary  
25 responsibility for prosecuting the action. If the attorney general  
26 elects to intervene in the action, this state and the qui tam  
27 plaintiff, and any local government that sustained damages and

1 intervenes in the action, share primary responsibility for  
2 prosecuting the action. If the attorney general elects to permit a  
3 local government to convert the action into a civil enforcement  
4 action, the local government has primary responsibility for  
5 investigating and prosecuting the action. If the action involves  
6 damages to a local government but not this state and the local  
7 government intervenes in the action, the local government and the  
8 qui tam plaintiff share primary responsibility for prosecuting the  
9 action. This state or a local government is not bound by an act of  
10 the qui tam plaintiff. The qui tam plaintiff has the right to  
11 continue as a party to the action, subject to the limitations in  
12 subdivision (b). This state is not bound by the act of a local  
13 government that intervenes in an action involving damages to this  
14 state. If neither the attorney general nor a local government  
15 intervenes in the action, the qui tam plaintiff has the right to  
16 prosecute the action, subject to the attorney general's right to  
17 intervene at a later date on a showing of good cause.

18 (b) All of the following are applicable:

19 (i) This state may move to dismiss the action notwithstanding  
20 the objections of the qui tam plaintiff if the qui tam plaintiff  
21 has been served with the motion to dismiss and the court has  
22 provided the qui tam plaintiff with an opportunity to be heard on  
23 the motion. If the action involves damages to both this state and a  
24 local government, this state shall consult with the local  
25 government before moving to dismiss the action. If the action  
26 involves damages sustained by a local government but not this  
27 state, the local government may move to dismiss the action

1 notwithstanding the objections of the qui tam plaintiff if the qui  
2 tam plaintiff has been served with the motion to dismiss and the  
3 court has provided the qui tam plaintiff with an opportunity to be  
4 heard on the motion.

5 (ii) This state or a local government may settle the action  
6 with the defendant notwithstanding the objections of the qui tam  
7 plaintiff if the court determines, after giving the qui tam  
8 plaintiff an opportunity to be heard, that the proposed settlement  
9 is fair, adequate, and reasonable with respect to all parties under  
10 the circumstances. On a showing of good cause, the opportunity to  
11 be heard may be provided in camera.

12 (iii) On a showing by the attorney general or a local  
13 government that the qui tam plaintiff's unrestricted participation  
14 in the litigation would interfere with or unduly delay the case or  
15 be repetitious or irrelevant, or on a showing by the defendant that  
16 the qui tam plaintiff's unrestricted participation in the  
17 litigation would be for purposes of harassment or cause the  
18 defendant undue burden, the court may, in its discretion, impose  
19 limitations on the qui tam plaintiff's participation in the case,  
20 including any of the following:

21 (A) Limiting the number of witnesses the qui tam plaintiff may  
22 call.

23 (B) Limiting the length of the testimony of the witnesses.

24 (C) Limiting the qui tam plaintiff's cross-examination of  
25 witnesses.

26 (D) Otherwise limiting the participation by the qui tam  
27 plaintiff in the litigation.

1 (c) Regardless of whether the attorney general or a local  
2 government elects to supersede or intervene in the action, the  
3 attorney general or the local government may pursue any remedy  
4 available with respect to the criminal or civil prosecution of the  
5 presentation of false claims, including any administrative  
6 proceeding to determine a civil money penalty or to refer the  
7 matter to the Office of Inspector General of the United States  
8 Department of Health and Human Services for Medicaid-related  
9 matters. If an alternate remedy is pursued in another action or  
10 proceeding, the qui tam plaintiff has the same rights in the other  
11 action or proceeding as the qui tam plaintiff would have had if the  
12 action brought under this section had continued.

13 (d) Regardless of whether the attorney general elects to  
14 supersede or intervene in the action or to permit a local  
15 government to supersede or intervene in the action, on a showing by  
16 this state or a local government that certain discovery by the qui  
17 tam plaintiff would interfere with this state's or the local  
18 government's investigation or prosecution of a criminal or civil  
19 matter arising out of the same facts, the court may stay the  
20 discovery for not more than 60 days. The showing must be made in  
21 camera. The court may extend the stay on a further showing in  
22 camera that this state or the local government has pursued the  
23 criminal or civil investigation or proceedings with reasonable  
24 diligence and allowing the discovery in the action will interfere  
25 with the ongoing criminal or civil investigation or proceedings.

26 (6) All of the following apply to awards to the qui tam  
27 plaintiff in an action brought under this section:

1           (a) If the attorney general elects to convert the action into  
2 an attorney general enforcement action or to permit a local  
3 government to convert the action into a civil enforcement action by  
4 the local government, or if the attorney general or a local  
5 government elects to intervene in the action, the qui tam plaintiff  
6 is entitled to receive from 15% to 20% of the proceeds recovered in  
7 the action or in settlement of the action. The court shall  
8 determine the percentage of the proceeds to which a qui tam  
9 plaintiff is entitled by considering the extent to which the qui  
10 tam plaintiff substantially contributed to the prosecution of the  
11 action. If the court finds that the action was based primarily on  
12 disclosures of specific information, other than information  
13 provided by the qui tam plaintiff, that related to allegations or  
14 transactions in a criminal, civil, or administrative hearing, in a  
15 state legislative or administrative report, hearing, audit or  
16 investigation, or from the news media, the court may award an  
17 amount that it considers appropriate, but not more than 10% of the  
18 proceeds, taking into account the significance of the information  
19 and the role of the qui tam plaintiff in advancing the case to  
20 litigation.

21           (b) If the attorney general or a local government does not  
22 elect to intervene or convert the action and the action is  
23 successful, a qui tam plaintiff who recovers proceeds is entitled  
24 to receive from 25% to 30% of the proceeds recovered in the action  
25 or settlement of the action. The court shall determine the  
26 percentage of the proceeds to which the qui tam plaintiff is  
27 entitled by considering the extent to which the qui tam plaintiff

1 substantially contributed to the prosecution of the action.

2 (c) With the exception of a court award of costs, expenses, or  
3 attorney fees, any payment to a qui tam plaintiff under this  
4 subsection must be made from the proceeds recovered in the action  
5 or in settlement of the action.

6 (7) In an action brought under this section, the court may  
7 award the attorney general, on behalf of the people of this state,  
8 a local government that participates as a party in the action, or a  
9 qui tam plaintiff an amount for reasonable expenses that the court  
10 finds to have been necessarily incurred, reasonable attorney fees,  
11 and costs. The expenses, fees, and costs must be awarded directly  
12 against the defendant, must not be charged from the proceeds, and  
13 may only be awarded if this state, a local government, or the qui  
14 tam plaintiff prevails in the action.

15 (8) If the court finds that an action under this section was  
16 brought by a person who planned or initiated the act described in  
17 section 3(1) on which the action was brought, the court may, to the  
18 extent the court considers appropriate, reduce the share of the  
19 proceeds of the action that the person would otherwise be entitled  
20 to receive under subsection (6), taking into account the role of  
21 the person in advancing the action to litigation and any relevant  
22 circumstances pertaining to the act. If a qui tam plaintiff is  
23 convicted of criminal conduct arising from his or her role in the  
24 act described in section 3(1), the qui tam plaintiff must be  
25 dismissed from the action and is not entitled to receive any share  
26 of the proceeds of the action. A dismissal under this subsection  
27 does not prejudice the right of the attorney general to intervene



1 in the action and to prosecute the action on behalf of this state  
2 or a local government.

3 (9) All of the following apply to an action bought under this  
4 section:

5 (a) The court shall dismiss the action if any of the following  
6 apply:

7 (i) The action is based on allegations or transactions that  
8 are the subject of a pending civil action or an administrative  
9 action in which this state or a local government is already a  
10 party.

11 (ii) This state or a local government has reached a binding  
12 settlement or other agreement with the person who committed the act  
13 described in section 3(1) resolving the matter and the agreement  
14 has been approved in writing by the attorney general or an attorney  
15 for the local government, if applicable.

16 (iii) The action is against a member of the legislature, a  
17 member of the judiciary, or a senior executive branch official and  
18 is based on evidence or information known to this state at the time  
19 the action was brought.

20 (b) The court shall dismiss the action, unless dismissal is  
21 opposed by this state or, if applicable, a local government or  
22 unless the qui tam plaintiff is an original source of the  
23 information, if substantially the same allegations or transactions  
24 as alleged in the action were publicly disclosed in 1 of the  
25 following ways:

26 (i) In a state or local government criminal, civil, or  
27 administrative hearing in which this state or a local government or

1 its agent is a party.

2 (ii) In a report, hearing, audit, or investigation of the  
3 United States, this state, or a local government that is made on  
4 the public record or disseminated broadly to the general public.  
5 However, for purposes of this subparagraph, information is not  
6 publicly disclosed in a report or investigation if it was disclosed  
7 or provided under the freedom of information act, 1976 PA 442, MCL  
8 15.231 to 15.246, or any other federal, state, or local law, rule,  
9 or program enabling the public to request, receive, or view  
10 documents or information in the possession of a public official or  
11 public agency.

12 (iii) In the news media. However, for purposes of this  
13 subparagraph, allegations or transactions are not publicly  
14 disclosed in the news media merely because information containing  
15 the allegations or transactions has been posted on the Internet or  
16 on a computer network.

17 (10) This state or a local government is not liable for any  
18 expenses that a qui tam plaintiff incurs in bringing an action  
19 under this section.

20 Sec. 5. (1) A current or former employee, contractor, or agent  
21 of a private or public employer who is discharged, demoted,  
22 suspended, threatened, harassed, or in any other manner  
23 discriminated against in the terms and conditions of employment or  
24 otherwise harmed or penalized by the employer or a prospective  
25 employer because of lawful acts done by the employee, contractor,  
26 or agent, or others associated with the employee, contractor, or  
27 agent in furtherance of an action brought under this section or

1 other efforts to stop 1 or more acts described in section 3(1) is  
2 entitled to all relief necessary to make the employee, contractor,  
3 or agent whole. Relief available under this subsection includes,  
4 but is not limited to, all of the following:

5 (a) An injunction to restrain continued discrimination.

6 (b) Hiring, contracting, or reinstatement to the position the  
7 person would have had but for the discrimination or to an  
8 equivalent position.

9 (c) Reinstatement of full fringe benefits and seniority  
10 rights.

11 (d) Payment of 2 times back pay and interest.

12 (e) Compensation for any special damages sustained as a result  
13 of the discrimination, including litigation costs and reasonable  
14 attorney fees.

15 (2) For purposes of this section, lawful acts include, but are  
16 not limited to, obtaining or transmitting to this state, a local  
17 government, a qui tam plaintiff, or private counsel solely employed  
18 to investigate a cause of action or potentially file or file an  
19 action under this act documents, data, correspondence, electronic  
20 mail, or any other information, even though the act may violate a  
21 contract, employment term, or duty owed to the employer or  
22 contractor, if the possession and transmission of the documents are  
23 for the sole purpose of furthering efforts to stop 1 or more acts  
24 described in section 3(1). This subsection does not prevent a law  
25 enforcement authority from bringing a civil or criminal action  
26 against a person for violating a law.

27 (3) An employee, contractor, or agent described in subsection

1 (1) may bring an action in the appropriate court for the relief  
2 provided in this section.

3 Sec. 6. (1) An action under this act must be commenced within  
4 10 years after the date on which the act described in section 3(1)  
5 is committed. For purposes of this act, an action under this act is  
6 commenced by the filing of a complaint.

7 (2) For purposes of applying any requirements of a court rule  
8 relating to pleading allegations of fraud, in pleading an action  
9 brought under this act, the qui tam plaintiff is not required to  
10 identify specific claims that result from an alleged course of  
11 misconduct, or any specific records or statements used, if the  
12 facts alleged in the complaint, if ultimately proven true, would  
13 provide a reasonable indication that 1 or more acts described in  
14 section 3(1) are likely to have occurred, and if the allegations in  
15 the complaint provide adequate notice of the specific nature of the  
16 alleged misconduct to permit this state or a local government  
17 effectively to investigate and defendants fairly to defend against  
18 the allegations made.

19 (3) In an action brought under this act, this state, a local  
20 government that participates as a party in the action, or a qui tam  
21 plaintiff has the burden of proving the essential elements of the  
22 cause of action, including damages, by a preponderance of the  
23 evidence.

24 Sec. 7. This act does not do any of the following:

25 (a) Preempt the authority, or relieve the duty, of a law  
26 enforcement agency to investigate and prosecute a suspected  
27 violation of law.

1           (b) Prevent or prohibit a person from voluntarily disclosing  
2 any information concerning an act described in section 3(1) to a  
3 law enforcement agency.

4           (c) Limit the power of the attorney general, a state agency,  
5 or a local government to investigate an act described in section  
6 3(1) and take appropriate action against any wrongdoer.

7           Sec. 8. The attorney general may promulgate rules as necessary  
8 to implement this act under the administrative procedures act of  
9 1969, 1969 PA 306, MCL 24.201 to 24.328.