

1 A bill to be entitled
2 An act relating to criminal use of personal
3 identification information; creating s.
4 817.568, F.S.; providing definitions; providing
5 that a person who willfully and without
6 authorization uses, or possesses with intent to
7 use, personal identification information
8 concerning an individual without previously
9 obtaining the individual's consent commits
10 either the offense of fraudulent use of
11 personal identification information or the
12 offense of harassment by use of personal
13 identification information, depending on
14 specified circumstances; providing penalties;
15 providing for nonapplicability of the new
16 provisions to specified law enforcement
17 activities; providing for restitution,
18 including attorney's fees and costs, to the
19 victim; providing for prosecution by the state
20 attorney or the statewide prosecutor;
21 reenacting s. 464.018(1)(d), F.S., relating to
22 disciplinary actions for violations of the
23 Nurse Practice Act, s. 772.102(1)(a), F.S.,
24 relating to definition of "criminal activity"
25 with respect to the Civil Remedies for Criminal
26 Practices Act, and s. 895.02(1)(a), F.S.,
27 relating to definition of "racketeering
28 activity," to provide for incorporation of said
29 new section in references to ch. 817, F.S.;
30 providing an effective date.

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1 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 817.568, Florida Statutes, is created to read:

817.568 Criminal use of personal identification information.--

(1) As used in this section:

(a) "Access device" means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument.

(b) "Authorization" means empowerment, permission, or competence to act.

(c) "Harass" means to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose. "Harass" does not mean to use personal identification information for accepted commercial purposes. The term does not include constitutionally protected conduct such as organized protests or the use of personal identification information for accepted commercial purposes.

(d) "Individual" means a single human being and does not mean a firm, association of individuals, corporation, partnership, joint venture, sole proprietorship, or any other entity.

1 (e) "Person" means a "person" as defined in s.
2 1.01(3).

3 (f) "Personal identification information" means any
4 name or number that may be used, alone or in conjunction with
5 any other information, to identify a specific individual,
6 including any:

7 1. Name, social security number, date of birth,
8 official state-issued or United States-issued driver's license
9 or identification number, alien registration number,
10 government passport number, employer or taxpayer
11 identification number, or Medicaid or food stamp account
12 number;

13 2. Unique biometric data, such as fingerprint, voice
14 print, retina or iris image, or other unique physical
15 representation;

16 3. Unique electronic identification number, address,
17 or routing code; or

18 4. Telecommunication identifying information or access
19 device.

20 (2) Any person who willfully and without authorization
21 fraudulently uses, or possesses with intent to fraudulently
22 use, personal identification information concerning an
23 individual without first obtaining that individual's consent,
24 commits the offense of fraudulent use of personal
25 identification information, which is a felony of the third
26 degree, punishable as provided in s. 775.082, s. 775.083, or
27 s. 775.084.

28 (3) Any person who willfully and without authorization
29 possesses, uses, or attempts to use personal identification
30 information concerning an individual without first obtaining
31 that individual's consent, and who does so for the purpose of

1 harassing that individual, commits the offense of harassment
2 by use of personal identification information, which is a
3 misdemeanor of the first degree, punishable as provided in s.
4 775.082 or s. 775.083.

5 (4) This section does not prohibit any lawfully
6 authorized investigative, protective, or intelligence activity
7 of a law enforcement agency of this state or any of its
8 political subdivisions, of any other state or its political
9 subdivisions, or of the Federal Government or its political
10 subdivisions.

11 (5)(a) In sentencing a defendant convicted of an
12 offense under this section, the court may order that the
13 defendant make restitution pursuant to s. 775.089 to any
14 victim of the offense. In addition to the victim's
15 out-of-pocket costs, such restitution may include payment of
16 any other costs, including attorney's fees incurred by the
17 victim in clearing the victim's credit history or credit
18 rating, or any costs incurred in connection with any civil or
19 administrative proceeding to satisfy any debt, lien, or other
20 obligation of the victim arising as the result of the actions
21 of the defendant.

22 (5)(b) The sentencing court may issue such orders as
23 are necessary to correct any public record that contains false
24 information given in violation of this section.

25 (6) Prosecutions for violations of this section may be
26 brought on behalf of the state by any state attorney or by the
27 statewide prosecutor.

28 Section 2. For the purpose of incorporating section
29 817.568, Florida Statutes, as created by this act, in
30 references thereto, the following sections or subdivisions of
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1 Florida Statutes or Florida Statutes, 1998 Supplement, are
2 reenacted to read:

3 464.018 Disciplinary actions.--

4 (1) The following acts shall be grounds for
5 disciplinary action set forth in this section:

6 (d) Being found guilty, regardless of adjudication, of
7 any of the following offenses:

8 1. A forcible felony as defined in chapter 776.

9 2. A violation of chapter 812, relating to theft,
10 robbery, and related crimes.

11 3. A violation of chapter 817, relating to fraudulent
12 practices.

13 4. A violation of chapter 800, relating to lewdness
14 and indecent exposure.

15 5. A violation of chapter 784, relating to assault,
16 battery, and culpable negligence.

17 6. A violation of chapter 827, relating to child
18 abuse.

19 7. A violation of chapter 415, relating to protection
20 from abuse, neglect, and exploitation.

21 8. A violation of chapter 39, relating to child abuse,
22 abandonment, and neglect.

23 772.102 Definitions.--As used in this chapter, the
24 term:

25 (1) "Criminal activity" means to commit, to attempt to
26 commit, to conspire to commit, or to solicit, coerce, or
27 intimidate another person to commit:

28 (a) Any crime which is chargeable by indictment or
29 information under the following provisions:

30 1. Section 210.18, relating to evasion of payment of
31 cigarette taxes.

- 1 2. Section 414.39, relating to public assistance
- 2 fraud.
- 3 3. Section 440.105 or s. 440.106, relating to workers'
- 4 compensation.
- 5 4. Part IV of chapter 501, relating to telemarketing.
- 6 5. Chapter 517, relating to securities transactions.
- 7 6. Section 550.235, s. 550.3551, or s. 550.3605,
- 8 relating to dogracing and horseracing.
- 9 7. Chapter 550, relating to jai alai frontons.
- 10 8. Chapter 552, relating to the manufacture,
- 11 distribution, and use of explosives.
- 12 9. Chapter 562, relating to beverage law enforcement.
- 13 10. Section 624.401, relating to transacting insurance
- 14 without a certificate of authority, s. 624.437(4)(c)1.,
- 15 relating to operating an unauthorized multiple-employer
- 16 welfare arrangement, or s. 626.902(1)(b), relating to
- 17 representing or aiding an unauthorized insurer.
- 18 11. Chapter 687, relating to interest and usurious
- 19 practices.
- 20 12. Section 721.08, s. 721.09, or s. 721.13, relating
- 21 to real estate timeshare plans.
- 22 13. Chapter 782, relating to homicide.
- 23 14. Chapter 784, relating to assault and battery.
- 24 15. Chapter 787, relating to kidnapping.
- 25 16. Chapter 790, relating to weapons and firearms.
- 26 17. Section 796.01, s. 796.03, s. 796.04, s. 796.05,
- 27 or s. 796.07, relating to prostitution.
- 28 18. Chapter 806, relating to arson.
- 29 19. Section 810.02(2)(c), relating to specified
- 30 burglary of a dwelling or structure.
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- 1 20. Chapter 812, relating to theft, robbery, and
2 related crimes.
- 3 21. Chapter 815, relating to computer-related crimes.
- 4 22. Chapter 817, relating to fraudulent practices,
5 false pretenses, fraud generally, and credit card crimes.
- 6 23. Section 827.071, relating to commercial sexual
7 exploitation of children.
- 8 24. Chapter 831, relating to forgery and
9 counterfeiting.
- 10 25. Chapter 832, relating to issuance of worthless
11 checks and drafts.
- 12 26. Section 836.05, relating to extortion.
- 13 27. Chapter 837, relating to perjury.
- 14 28. Chapter 838, relating to bribery and misuse of
15 public office.
- 16 29. Chapter 843, relating to obstruction of justice.
- 17 30. Section 847.011, s. 847.012, s. 847.013, s.
18 847.06, or s. 847.07, relating to obscene literature and
19 profanity.
- 20 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
21 or s. 849.25, relating to gambling.
- 22 32. Chapter 893, relating to drug abuse prevention and
23 control.
- 24 33. Section 914.22 or s. 914.23, relating to
25 witnesses, victims, or informants.
- 26 34. Section 918.12 or s. 918.13, relating to tampering
27 with jurors and evidence.
- 28 895.02 Definitions.--As used in ss. 895.01-895.08, the
29 term:
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1 (1) "Racketeering activity" means to commit, to
2 attempt to commit, to conspire to commit, or to solicit,
3 coerce, or intimidate another person to commit:

4 (a) Any crime which is chargeable by indictment or
5 information under the following provisions of the Florida
6 Statutes:

7 1. Section 210.18, relating to evasion of payment of
8 cigarette taxes.

9 2. Section 403.727(3)(b), relating to environmental
10 control.

11 3. Section 414.39, relating to public assistance
12 fraud.

13 4. Section 409.920, relating to Medicaid provider
14 fraud.

15 5. Section 440.105 or s. 440.106, relating to workers'
16 compensation.

17 6. Part IV of chapter 501, relating to telemarketing.

18 7. Chapter 517, relating to sale of securities and
19 investor protection.

20 8. Section 550.235, s. 550.3551, or s. 550.3605,
21 relating to dogracing and horseracing.

22 9. Chapter 550, relating to jai alai frontons.

23 10. Chapter 552, relating to the manufacture,
24 distribution, and use of explosives.

25 11. Chapter 562, relating to beverage law enforcement.

26 12. Section 624.401, relating to transacting insurance
27 without a certificate of authority, s. 624.437(4)(c)1.,
28 relating to operating an unauthorized multiple-employer
29 welfare arrangement, or s. 626.902(1)(b), relating to
30 representing or aiding an unauthorized insurer.

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- 1 13. Section 655.50, relating to reports of currency
- 2 transactions, when such violation is punishable as a felony.
- 3 14. Chapter 687, relating to interest and usurious
- 4 practices.
- 5 15. Section 721.08, s. 721.09, or s. 721.13, relating
- 6 to real estate timeshare plans.
- 7 16. Chapter 782, relating to homicide.
- 8 17. Chapter 784, relating to assault and battery.
- 9 18. Chapter 787, relating to kidnapping.
- 10 19. Chapter 790, relating to weapons and firearms.
- 11 20. Section 796.03, s. 796.04, s. 796.05, or s.
- 12 796.07, relating to prostitution.
- 13 21. Chapter 806, relating to arson.
- 14 22. Section 810.02(2)(c), relating to specified
- 15 burglary of a dwelling or structure.
- 16 23. Chapter 812, relating to theft, robbery, and
- 17 related crimes.
- 18 24. Chapter 815, relating to computer-related crimes.
- 19 25. Chapter 817, relating to fraudulent practices,
- 20 false pretenses, fraud generally, and credit card crimes.
- 21 26. Chapter 825, relating to abuse, neglect, or
- 22 exploitation of an elderly person or disabled adult.
- 23 27. Section 827.071, relating to commercial sexual
- 24 exploitation of children.
- 25 28. Chapter 831, relating to forgery and
- 26 counterfeiting.
- 27 29. Chapter 832, relating to issuance of worthless
- 28 checks and drafts.
- 29 30. Section 836.05, relating to extortion.
- 30 31. Chapter 837, relating to perjury.
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- 1 32. Chapter 838, relating to bribery and misuse of
2 public office.
- 3 33. Chapter 843, relating to obstruction of justice.
- 4 34. Section 847.011, s. 847.012, s. 847.013, s.
5 847.06, or s. 847.07, relating to obscene literature and
6 profanity.
- 7 35. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
8 or s. 849.25, relating to gambling.
- 9 36. Chapter 874, relating to criminal street gangs.
- 10 37. Chapter 893, relating to drug abuse prevention and
11 control.
- 12 38. Chapter 896, relating to offenses related to
13 financial transactions.
- 14 39. Sections 914.22 and 914.23, relating to tampering
15 with a witness, victim, or informant, and retaliation against
16 a witness, victim, or informant.
- 17 40. Sections 918.12 and 918.13, relating to tampering
18 with jurors and evidence.
- 19 Section 3. This act shall take effect July 1, 1999.

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