

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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5			ORIGINAL STAMP BELOW
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11 The Committee on Crime Prevention, Corrections & Safety
12 offered the following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

18 Section 1. Section 817.568, Florida Statutes, is
19 amended to read:

20 817.568 Criminal use of personal identification
21 information.--

22 (1) As used in this section, the term:

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

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

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

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

15 (e) "Person" means a "person" as defined in s.
16 1.01(3).

17 (f) "Personal identification information" means any
18 name or number that may be used, alone or in conjunction with
19 any other information, to identify a specific individual,
20 including any:

21 1. Name, social security number, date of birth,
22 official state-issued or United States-issued driver's license
23 or identification number, alien registration number,
24 government passport number, employer or taxpayer
25 identification number, or Medicaid or food stamp account
26 number;

27 2. Unique biometric data, such as fingerprint, voice
28 print, retina or iris image, or other unique physical
29 representation;

30 3. Unique electronic identification number, address,
31 or routing code; or

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1 4. Telecommunication identifying information or access
2 device.

3 (2)(a) Any person who willfully and without
4 authorization fraudulently uses, or possesses with intent to
5 fraudulently use, personal identification information
6 concerning an individual without first obtaining that
7 individual's consent, commits the offense of fraudulent use of
8 personal identification information, which is a felony of the
9 third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 (b) Any person who willfully and without authorization
12 fraudulently uses personal identification information
13 concerning an individual without first obtaining that
14 individual's consent commits a felony of the second degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084, if the pecuniary benefit, the value of the services
17 received, the payment sought to be avoided, or the amount of
18 the injury or fraud perpetrated is \$75,000 or more.

19 (3) Any person who willfully and without authorization
20 possesses, uses, or attempts to use personal identification
21 information concerning an individual without first obtaining
22 that individual's consent, and who does so for the purpose of
23 harassing that individual, commits the offense of harassment
24 by use of personal identification information, which is a
25 misdemeanor of the first degree, punishable as provided in s.
26 775.082 or s. 775.083.

27 (4) If an offense prohibited under this section was
28 facilitated or furthered by the use of a public record, as
29 defined in s. 119.011, the offense is reclassified to the next
30 higher degree as follows:

31 (a) A misdemeanor of the first degree is reclassified

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1 as a felony of the third degree.

2 (b) A felony of the third degree is reclassified as a
3 felony of the second degree.

4 (c) A felony of the second degree is reclassified as a
5 felony of the first degree.

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7 For purposes of sentencing under chapter 921 and incentive
8 gain-time eligibility under chapter 944, a felony offense that
9 is reclassified under this subsection is ranked one level
10 above the ranking under s. 921.0022 of the felony offense
11 committed, and a misdemeanor offense that is reclassified
12 under this subsection is ranked in level 2 of the offense
13 severity ranking chart in s. 921.0022.

14 (5)(4) This section does not prohibit any lawfully
15 authorized investigative, protective, or intelligence activity
16 of a law enforcement agency of this state or any of its
17 political subdivisions, of any other state or its political
18 subdivisions, or of the Federal Government or its political
19 subdivisions.

20 (6)(5)(a) In sentencing a defendant convicted of an
21 offense under this section, the court may order that the
22 defendant make restitution pursuant to s. 775.089 to any
23 victim of the offense. In addition to the victim's
24 out-of-pocket costs, such restitution may include payment of
25 any other costs, including attorney's fees incurred by the
26 victim in clearing the victim's credit history or credit
27 rating, or any costs incurred in connection with any civil or
28 administrative proceeding to satisfy any debt, lien, or other
29 obligation of the victim arising as the result of the actions
30 of the defendant.

31 (b) The sentencing court may issue such orders as are

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1 necessary to correct any public record that contains false
2 information given in violation of this section.

3 (7)(6) Prosecutions for violations of this section may
4 be brought on behalf of the state by any state attorney or by
5 the statewide prosecutor.

6 (8) LEGISLATIVE FINDING. The Legislature finds that,
7 in the absence of evidence to the contrary, the location where
8 a victim gives or fails to give consent to the use of personal
9 identification information is the county where the victim
10 generally resides.

11 (9) Notwithstanding any other provision of law, venue
12 for the prosecution and trial of violations of this section
13 may be commenced and maintained in any county in which an
14 element of the offense occurred, including the county where
15 the victim generally resides.

16 (10) A prosecution of an offense prohibited under
17 subsection (2) must be commenced within 3 years after the
18 offense occurred. However, a prosecution may be commenced
19 within 1 year after discovery of the offense by an aggrieved
20 party, or by a person who has a legal duty to represent the
21 aggrieved party and who is not a party to the offense, if such
22 prosecution is commenced within 5 years after the violation
23 occurred.

24 Section 2. Paragraphs (d) and (e) of subsection (3) of
25 section 921.0022, Florida Statutes, are amended to read:

26 921.0022 Criminal Punishment Code; offense severity
27 ranking chart.--

28 (3) OFFENSE SEVERITY RANKING CHART
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1	Florida	Felony	
2	Statute	Degree	Description
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4			
5			(d) LEVEL 4
6	316.1935(3)	2nd	Driving at high speed or with
7			wanton disregard for safety while
8			fleeing or attempting to elude
9			law enforcement officer who is in
10			a marked patrol vehicle with
11			siren and lights activated.
12	784.07(2)(b)	3rd	Battery of law enforcement
13			officer, firefighter, intake
14			officer, etc.
15	784.075	3rd	Battery on detention or
16			commitment facility staff.
17	784.08(2)(c)	3rd	Battery on a person 65 years of
18			age or older.
19	784.081(3)	3rd	Battery on specified official or
20			employee.
21	784.082(3)	3rd	Battery by detained person on
22			visitor or other detainee.
23	784.083(3)	3rd	Battery on code inspector.
24	784.085	3rd	Battery of child by throwing,
25			tossing, projecting, or expelling
26			certain fluids or materials.
27	787.03(1)	3rd	Interference with custody;
28			wrongly takes child from
29			appointed guardian.
30	787.04(2)	3rd	Take, entice, or remove child
31			beyond state limits with criminal

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1			intent pending custody
2			proceedings.
3	787.04(3)	3rd	Carrying child beyond state lines
4			with criminal intent to avoid
5			producing child at custody
6			hearing or delivering to
7			designated person.
8	790.115(1)	3rd	Exhibiting firearm or weapon
9			within 1,000 feet of a school.
10	790.115(2)(b)	3rd	Possessing electric weapon or
11			device, destructive device, or
12			other weapon on school property.
13	790.115(2)(c)	3rd	Possessing firearm on school
14			property.
15	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
16			offender less than 18 years.
17	810.02(4)(a)	3rd	Burglary, or attempted burglary,
18			of an unoccupied structure;
19			unarmed; no assault or battery.
20	810.02(4)(b)	3rd	Burglary, or attempted burglary,
21			of an unoccupied conveyance;
22			unarmed; no assault or battery.
23	810.06	3rd	Burglary; possession of tools.
24	810.08(2)(c)	3rd	Trespass on property, armed with
25			firearm or dangerous weapon.
26	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
27			or more but less than \$20,000.
28	812.014		
29	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
30			firearm, motor vehicle,
31			livestock, etc.

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1	817.563(1)	3rd	Sell or deliver substance other
2			than controlled substance agreed
3			upon, excluding s. 893.03(5)
4			drugs.
5	<u>817.568(2)(a)</u>	<u>3rd</u>	<u>Fraudulent use of</u>
6			<u>personal-identification</u>
7			<u>information.</u>
8	828.125(1)	2nd	Kill, maim, or cause great bodily
9			harm or permanent breeding
10			disability to any registered
11			horse or cattle.
12	837.02(1)	3rd	Perjury in official proceedings.
13	837.021(1)	3rd	Make contradictory statements in
14			official proceedings.
15	843.021	3rd	Possession of a concealed
16			handcuff key by a person in
17			custody.
18	843.025	3rd	Deprive law enforcement,
19			correctional, or correctional
20			probation officer of means of
21			protection or communication.
22	843.15(1)(a)	3rd	Failure to appear while on bail
23			for felony (bond estreature or
24			bond jumping).
25	874.05(1)	3rd	Encouraging or recruiting another
26			to join a criminal street gang.
27	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
28			893.03(1)(a), (b), or (d),
29			(2)(a), (2)(b), or (2)(c)4.
30			drugs).
31	914.14(2)	3rd	Witnesses accepting bribes.

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1	914.22(1)	3rd	Force, threaten, etc., witness,
2			victim, or informant.
3	914.23(2)	3rd	Retaliation against a witness,
4			victim, or informant, no bodily
5			injury.
6	918.12	3rd	Tampering with jurors.
7			(e) LEVEL 5
8	316.027(1)(a)	3rd	Accidents involving personal
9			injuries, failure to stop;
10			leaving scene.
11	316.1935(4)	2nd	Aggravated fleeing or eluding.
12	322.34(6)	3rd	Careless operation of motor
13			vehicle with suspended license,
14			resulting in death or serious
15			bodily injury.
16	327.30(5)	3rd	Vessel accidents involving
17			personal injury; leaving scene.
18	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
19			knowing HIV positive.
20	790.01(2)	3rd	Carrying a concealed firearm.
21	790.162	2nd	Threat to throw or discharge
22			destructive device.
23	790.163	2nd	False report of deadly explosive.
24	790.165(2)	3rd	Manufacture, sell, possess, or
25			deliver hoax bomb.
26	790.221(1)	2nd	Possession of short-barreled
27			shotgun or machine gun.
28	790.23	2nd	Felons in possession of firearms
29			or electronic weapons or devices.
30	800.04(6)(c)	3rd	Lewd or lascivious conduct;
31			offender less than 18 years.

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1	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
2			offender 18 years or older.
3	806.111(1)	3rd	Possess, manufacture, or dispense
4			fire bomb with intent to damage
5			any structure or property.
6	812.019(1)	2nd	Stolen property; dealing in or
7			trafficking in.
8	812.131(2)(b)	3rd	Robbery by sudden snatching.
9	812.16(2)	3rd	Owning, operating, or conducting
10			a chop shop.
11	817.034(4)(a)2.	2nd	Communications fraud, value
12			\$20,000 to \$50,000.
13	<u>817.568(2)(b)</u>	<u>2nd</u>	<u>Fraudulent use of personal</u>
14			<u>identification information; value</u>
15			<u>of benefit, services received,</u>
16			<u>payment avoided, or amount of</u>
17			<u>injury or fraud, \$75,000 or more.</u>
18	825.1025(4)	3rd	Lewd or lascivious exhibition in
19			the presence of an elderly person
20			or disabled adult.
21	827.071(4)	2nd	Possess with intent to promote
22			any photographic material, motion
23			picture, etc., which includes
24			sexual conduct by a child.
25	843.01	3rd	Resist officer with violence to
26			person; resist arrest with
27			violence.
28	874.05(2)	2nd	Encouraging or recruiting another
29			to join a criminal street gang;
30			second or subsequent offense.
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1	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d),
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs).
6	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
7			cannabis (or other s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs) within 1,000
12			feet of a child care facility or
13			school.
14	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
15			cocaine (or other s.
16			893.03(1)(a), (1)(b), (1)(d),
17			(2)(a), (2)(b), or (2)(c)4.
18			drugs) within 200 feet of
19			university or public park.
20	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
21			cannabis or other drug prohibited
22			under s. 893.03(1)(c), (2)(c)1.,
23			(2)(c)2., (2)(c)3., (2)(c)5.,
24			(2)(c)6., (2)(c)7., (2)(c)8.,
25			(2)(c)9., (3), or (4) within
26			1,000 feet of property used for
27			religious services or a specified
28			business site.
29	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
30			cocaine (or other s.
31			893.03(1)(a), (1)(b), (1)(d), or

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1 (2)(a), (2)(b), or (2)(c)4.
2 drugs) within 200 feet of public
3 housing facility.
4 893.13(4)(b) 2nd Deliver to minor cannabis (or
5 other s. 893.03(1)(c), (2)(c)1.,
6 (2)(c)2., (2)(c)3., (2)(c)5.,
7 (2)(c)6., (2)(c)7., (2)(c)8.,
8 (2)(c)9., (3), or (4) drugs).
9 Section 3. This act shall take effect July 1, 2001.

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 1, line 8 through line 10,
remove from the title of the bill: all said lines
and insert in lieu thereof: An act relating to the criminal
use of personal information; amending s. 817.568, F.S.;
providing that the willful and fraudulent use of personal
identification information of another individual is a felony
of the second degree if the value of the pecuniary benefit
services received, payment sought to be avoided, or injury or
fraud perpetrated is of a specified amount or more; providing
for reclassification of certain offenses involving the
criminal use of personal-identification information if the
offense was facilitated by the use of a public record;
requiring that such offense be prosecuted in the county where
the victim resides or in a county where any element of the
offense occurred; limiting the time within which a person who
fraudulently uses personal-identification information must be
prosecuted; amending s. 921.0022, F.S., relating to the the

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1 offense severity ranking chart of the Criminal Punishment
2 Code; ranking offenses relating to fraudulent use of personal
3 identification information; providing an effective date.
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