

By the Committee on Information Technology and
Representatives Hart, Mack, Wallace, Gelber, Jennings, Mealor,
Gannon and Harrell

1 A bill to be entitled
2 An act relating to the criminal use of personal
3 identification information; amending s.
4 817.568, F.S.; revising the definition of
5 "harass"; deleting the definitions of
6 "individual" and "person"; revising the
7 definition of "personal identification
8 information"; adding an offense for obtaining
9 or using personal identification information
10 without authorization; revising the provision
11 for offense of harassment by use of personal
12 identification information; revising the
13 provision for offense of fraudulent use of
14 personal identification information; adding a
15 provision for reclassifying offenses involving
16 unlawful use of a public record; revising the
17 provision authorizing sentencing court to order
18 restitution; adding a provision for venue;
19 amending s. 775.15, F.S.; adding a provision
20 extending the period within which prosecutions
21 may be commenced; amending s. 921.0022, F.S.;
22 revising the Florida Criminal Punishment Code
23 Offense Severity Ranking Chart to include
24 fraudulent use of personal identification
25 information; amending s. 921.0024, F.S.;
26 revising the Florida Criminal Punishment Code
27 to increase sentencing points for unlawful use
28 of a public record in committing an offense
29 under s. 817.568, F.S.; providing an effective
30 date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 817.568, Florida Statutes, is
4 amended to read:

5 817.568 Criminal use of personal identification
6 information.--

7 (1) As used in this section:

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

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

19 (c) "Harass" means to knowingly engage in an
20 unauthorized course of conduct that serves no legitimate
21 purpose, directed at one or more persons with intent to
22 subject such person or persons to annoyance, embarrassment,
23 humiliation, distress, torment, or terror ~~a specific person~~
24 ~~that is intended to cause substantial emotional distress to~~
25 ~~such person and serves no legitimate purpose.~~ "Harass" does
26 not mean to use personal identification information for
27 ~~accepted commercial purposes.~~ The term does not include any
28 authorized course of constitutionally protected conduct that
29 serves a legitimate ~~such as organized protests or the use of~~
30 ~~personal identification information for accepted commercial or~~
31 governmental purpose purposes.

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

5 ~~(e) "Person" means a "person" as defined in s.~~
6 ~~1.01(3).~~

7 (f) "Personal identification information" means any
8 name or number that may be used, alone or in conjunction with
9 any other information, to identify a person specific
10 ~~individual~~, including any:

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

17 2. Unique biometric data, such as fingerprint, voice
18 print, retina or iris image, or other unique physical
19 representation;

20 3. Unique electronic identification number, address,
21 or routing code; or

22 4. Telecommunication identifying information or access
23 device.

24 (2) Any person who knowingly obtains or uses, or
25 attempts to obtain or use, another person's ~~willfully and~~
26 ~~without authorization fraudulently uses, or possesses with~~
27 ~~intent to fraudulently use,~~ personal identification
28 information, without being duly authorized to obtain or use
29 such information, is guilty of obtaining or using concerning
30 ~~an individual without first obtaining that individual's~~
31 ~~consent, commits the offense of fraudulent use of personal~~

1 identification information without authorization, which is a
2 misdemeanor ~~felony~~ of the second ~~third~~ degree, punishable as
3 provided in s. 775.082 or ~~s. 775.083, or s. 775.084.~~

4 (3) Any person who knowingly obtains or ~~willfully and~~
5 ~~without authorization possesses, uses, or attempts to obtain~~
6 or use, another person's personal identification information
7 ~~concerning an individual~~ without being duly authorized to
8 obtain or use such information, and does so with intent to
9 obtain or use or facilitate obtaining or using such
10 information to harass any person, is guilty first obtaining
11 ~~that individual's consent, and who does so for the purpose of~~
12 ~~harassing that individual, commits the offense of harassment~~
13 ~~by use of personal identification information, which is a~~
14 ~~misdemeanor of the first degree, punishable as provided in s.~~
15 ~~775.082 or s. 775.083.~~

16 (4) Any person who knowingly obtains or uses, or
17 attempts to obtain or use, another person's personal
18 identification information without being duly authorized to
19 obtain or use such information, with intent to use such
20 information fraudulently, is guilty of fraudulent use of
21 personal identification information, which is a felony of the
22 third degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 (5) If a person unlawfully obtains or uses a public
25 record, as defined in s. 119.011, to obtain or use any
26 personal identification information in committing any of the
27 crimes specified in this section, or unlawfully obtains or
28 uses any such public record to facilitate commission of any
29 such crime, the crime shall be reclassified as follows:

30 (a) Obtaining or using personal identification
31 information without authorization under subsection (2) shall

1 be reclassified from a misdemeanor of the second degree to a
2 misdemeanor of the first degree.

3 (b) Harassment by use of personal identification
4 information under subsection (3) shall be reclassified from a
5 misdemeanor of the first degree to a felony of the third
6 degree.

7 (c) Fraudulent use of personal identification
8 information under subsection (4) shall be reclassified from a
9 felony of the third degree to a felony of the second degree.

10 ~~(6)(4)~~ This section does not prohibit any lawfully
11 authorized investigative, protective, or intelligence activity
12 of a law enforcement agency of this state or any of its
13 political subdivisions, of any other state or its political
14 subdivisions, or of the Federal Government or its political
15 subdivisions.

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

27 ~~(b) The sentencing court may issue such orders as are~~
28 ~~necessary to correct any public record that contains false~~
29 ~~information given in violation of this section.~~

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1 ~~(7)(6)~~ Prosecutions for violations of this section may
2 be brought on behalf of the state by any state attorney or by
3 the statewide prosecutor.

4 (8) When sentencing a defendant convicted of any crime
5 specified in this section, the court shall, pursuant to s.
6 775.089, order the defendant to make restitution to any person
7 who is a victim of the crime. Such restitution may include
8 payment of all costs, including attorney's fees, that any
9 victim has reasonably and necessarily incurred in correcting
10 any error or removing any misrepresentation in such victim's
11 credit history or credit record, or in satisfying or
12 discharging any monetary debt, mortgage, lien, or other legal
13 obligation affecting such victim's financial condition that
14 was created or caused by or resulted from the defendant's
15 commission of such crime. The sentencing court may also order
16 correction, completion, restoration, or replacement of any
17 public record, as defined in s. 119.011, that is incorrect,
18 incomplete, damaged, or missing as a result of the defendant's
19 commission of such crime.

20 (9) Notwithstanding any other provisions of law, venue
21 for prosecution and trial of an offense under this section may
22 be commenced and maintained in the county of residence of the
23 victim or in any county in which any element of the crime was
24 committed.

25 Section 2. Paragraph (i) is added to subsection (2) of
26 section 775.15, Florida Statutes, to read:

27 775.15 Time limitations.--

28 (2) Except as otherwise provided in this section,
29 prosecutions for other offenses are subject to the following
30 periods of limitation:
31

1 (i) A prosecution for an offense under s. 817.568 must
2 be commenced within 5 years after the offense is committed.

3 Section 3. Paragraph (c) of subsection (3) of section
4 921.0022, Florida Statutes, is amended to read:

5 921.0022 Criminal Punishment Code; offense severity
6 ranking chart.--

7 (3) OFFENSE SEVERITY RANKING CHART

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9 Florida	Felony	
10 Statute	Degree	Description
		12 (c) LEVEL 3
13 316.1935(2)	3rd	14 Fleeing or attempting to elude 15 law enforcement officer in marked 16 patrol vehicle with siren and lights activated.
17 319.30(4)	3rd	18 Possession by junkyard of motor 19 vehicle with identification number plate removed.
20 319.33(1)(a)	3rd	21 Alter or forge any certificate of 22 title to a motor vehicle or mobile home.
23 319.33(1)(c)	3rd	24 Procure or pass title on stolen vehicle.
25 319.33(4)	3rd	26 With intent to defraud, possess, 27 sell, etc., a blank, forged, or 28 unlawfully obtained title or registration.

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1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	815.04(4)(b)	2nd	Computer offense devised to
30			defraud or obtain property.
31			

1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	<u>817.568(4)</u>	<u>3rd</u>	<u>Fraudulent use of personal</u>
7			<u>identification information.</u>
8	828.12(2)	3rd	Tortures any animal with intent
9			to inflict intense pain, serious
10			physical injury, or death.
11	831.29	2nd	Possession of instruments for
12			counterfeiting drivers' licenses
13			or identification cards.
14	838.021(3)(b)	3rd	Threatens unlawful harm to public
15			servant.
16	843.19	3rd	Injure, disable, or kill police
17			dog or horse.
18	870.01(2)	3rd	Riot; inciting or encouraging.
19	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
20			cannabis (or other s.
21			893.03(1)(c), (2)(c)1., (2)(c)2.,
22			(2)(c)3., (2)(c)5., (2)(c)6.,
23			(2)(c)7., (2)(c)8., (2)(c)9.,
24			(3), or (4) drugs).
25	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
26			893.03(1)(c), (2)(c)1., (2)(c)2.,
27			(2)(c)3., (2)(c)5., (2)(c)6.,
28			(2)(c)7., (2)(c)8., (2)(c)9.,
29			(3), or (4) drugs within 200 feet
30			of university or public park.
31			

1	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 200 feet
6			of public housing facility.
7	893.13(6)(a)	3rd	Possession of any controlled
8			substance other than felony
9			possession of cannabis.
10	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
11			controlled substance by fraud,
12			forgery, misrepresentation, etc.
13	893.13(7)(a)11.	3rd	Furnish false or fraudulent
14			material information on any
15			document or record required by
16			chapter 893.
17	918.13(1)(a)	3rd	Alter, destroy, or conceal
18			investigation evidence.
19	944.47		
20	(1)(a)1.-2.	3rd	Introduce contraband to
21			correctional facility.
22	944.47(1)(c)	2nd	Possess contraband while upon the
23			grounds of a correctional
24			institution.
25	985.3141	3rd	Escapes from a juvenile facility
26			(secure detention or residential
27			commitment facility).
28	Section 4. Paragraph (b) of subsection (1) of section		
29	921.0024, Florida Statutes, is amended to read:		
30	921.0024 Criminal Punishment Code; worksheet		
31	computations; scoresheets.--		

1 (1)

2 (b) WORKSHEET KEY:

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4 Legal status points are assessed when any form of legal status
5 existed at the time the offender committed an offense before
6 the court for sentencing. Four (4) sentence points are
7 assessed for an offender's legal status.

8

9 Community sanction violation points are assessed when a
10 community sanction violation is before the court for
11 sentencing. Six (6) sentence points are assessed for each
12 community sanction violation, and each successive community
13 sanction violation; however, if the community sanction
14 violation includes a new felony conviction before the
15 sentencing court, twelve (12) community sanction violation
16 points are assessed for such violation, and for each
17 successive community sanction violation involving a new felony
18 conviction. Multiple counts of community sanction violations
19 before the sentencing court shall not be a basis for
20 multiplying the assessment of community sanction violation
21 points.

22

23 Prior serious felony points: If the offender has a primary
24 offense or any additional offense ranked in level 8, level 9,
25 or level 10, and one or more prior serious felonies, a single
26 assessment of 30 points shall be added. For purposes of this
27 section, a prior serious felony is an offense in the
28 offender's prior record that is ranked in level 8, level 9, or
29 level 10 under s. 921.0022 or s. 921.0023 and for which the
30 offender is serving a sentence of confinement, supervision, or
31 other sanction or for which the offender's date of release

1 from confinement, supervision, or other sanction, whichever is
2 later, is within 3 years before the date the primary offense
3 or any additional offense was committed.

4
5 Prior capital felony points: If the offender has one or more
6 prior capital felonies in the offender's criminal record,
7 points shall be added to the subtotal sentence points of the
8 offender equal to twice the number of points the offender
9 receives for the primary offense and any additional offense.

10 A prior capital felony in the offender's criminal record is a
11 previous capital felony offense for which the offender has
12 entered a plea of nolo contendere or guilty or has been found
13 guilty; or a felony in another jurisdiction which is a capital
14 felony in that jurisdiction, or would be a capital felony if
15 the offense were committed in this state.

16
17 Possession of a firearm, semiautomatic firearm, or machine
18 gun: If the offender is convicted of committing or attempting
19 to commit any felony other than those enumerated in s.
20 775.087(2) while having in his or her possession: a firearm as
21 defined in s. 790.001(6), an additional 18 sentence points are
22 assessed; or if the offender is convicted of committing or
23 attempting to commit any felony other than those enumerated in
24 s. 775.087(3) while having in his or her possession a
25 semiautomatic firearm as defined in s. 775.087(3) or a machine
26 gun as defined in s. 790.001(9), an additional 25 sentence
27 points are assessed.

28
29 Sentencing multipliers:
30
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1 Drug trafficking: If the primary offense is drug trafficking
2 under s. 893.135, the subtotal sentence points are multiplied,
3 at the discretion of the court, for a level 7 or level 8
4 offense, by 1.5. The state attorney may move the sentencing
5 court to reduce or suspend the sentence of a person convicted
6 of a level 7 or level 8 offense, if the offender provides
7 substantial assistance as described in s. 893.135(4).
8
9 Law enforcement protection: If the primary offense is a
10 violation of the Law Enforcement Protection Act under s.
11 775.0823(2), the subtotal sentence points are multiplied by
12 2.5. If the primary offense is a violation of s. 775.0823(3),
13 (4), (5), (6), (7), or (8), the subtotal sentence points are
14 multiplied by 2.0. If the primary offense is a violation of s.
15 784.07(3) or s. 775.0875(1), or of the Law Enforcement
16 Protection Act under s. 775.0823(9) or (10), the subtotal
17 sentence points are multiplied by 1.5.
18
19 Grand theft of a motor vehicle: If the primary offense is
20 grand theft of the third degree involving a motor vehicle and
21 in the offender's prior record, there are three or more grand
22 thefts of the third degree involving a motor vehicle, the
23 subtotal sentence points are multiplied by 1.5.
24
25 Criminal street gang member: If the offender is convicted of
26 the primary offense and is found to have been a member of a
27 criminal street gang at the time of the commission of the
28 primary offense pursuant to s. 874.04, the subtotal sentence
29 points are multiplied by 1.5.
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1 Domestic violence in the presence of a child: If the offender
2 is convicted of the primary offense and the primary offense is
3 a crime of domestic violence, as defined in s. 741.28, which
4 was committed in the presence of a child under 16 years of age
5 who is a family household member as defined in s. 741.28(2)
6 with the victim or perpetrator, the subtotal sentence points
7 are multiplied by 1.5.

8
9 Unlawfully obtaining or using a public record in committing an
10 offense using personal identification information: If the
11 primary offense is a violation of s. 817.568 and any part of
12 the personal identification information used in committing the
13 offense was obtained from unlawfully obtaining or using a
14 public record, as defined in s. 119.011, the subtotal sentence
15 points are multiplied by 1.5

16 Section 5. This act shall take effect July 1, 2001.

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18 *****

19 HOUSE SUMMARY

20 Revises provisions of law relating to the criminal use of
21 personal identification information to:

22 1. Provide an offense for obtaining or using
23 personal identification information without
24 authorization.

25 2. Revise the provision of law with respect to the
26 offense of harassment by use of personal identification
27 information.

28 3. Revise the provision of law with respect to the
29 offense of fraudulent use of personal identification
30 information.

31 4. Provide for reclassifying offenses when
committed by unlawful use of a public record.

5. Revise provisions with respect to restitution.

6. Require prosecution within a period of 5 years
after the offense is committed.

See bill for details.