

1 A bill to be entitled
2 An act relating to the criminal use of personal
3 information; amending s. 817.568, F.S.;
4 providing that the willful and fraudulent use
5 of personal identification information of
6 another individual is a felony of the second
7 degree if the value of the pecuniary benefit
8 services received, payment sought to be
9 avoided, or injury or fraud perpetrated is of a
10 specified amount or more; providing for
11 reclassification of certain offenses involving
12 the criminal use of personal-identification
13 information if the offense was facilitated by
14 the use of a public record; requiring that such
15 offense be prosecuted in the county where the
16 victim resides or in a county where any element
17 of the offense occurred; limiting the time
18 within which a person who fraudulently uses
19 personal-identification information must be
20 prosecuted; amending s. 921.0022, F.S.,
21 relating to the the offense severity ranking
22 chart of the Criminal Punishment Code; ranking
23 offenses relating to fraudulent use of personal
24 identification information; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 817.568, Florida Statutes, is
30 amended to read:

31

1 817.568 Criminal use of personal identification
2 information.--
3 (1) As used in this section, the term:
4 (a) "Access device" means any card, plate, code,
5 account number, electronic serial number, mobile
6 identification number, personal identification number, or
7 other telecommunications service, equipment, or instrument
8 identifier, or other means of account access that can be used,
9 alone or in conjunction with another access device, to obtain
10 money, goods, services, or any other thing of value, or that
11 can be used to initiate a transfer of funds, other than a
12 transfer originated solely by paper instrument.
13 (b) "Authorization" means empowerment, permission, or
14 competence to act.
15 (c) "Harass" means to engage in conduct directed at a
16 specific person that is intended to cause substantial
17 emotional distress to such person and serves no legitimate
18 purpose. "Harass" does not mean to use personal identification
19 information for accepted commercial purposes. The term does
20 not include constitutionally protected conduct such as
21 organized protests or the use of personal identification
22 information for accepted commercial purposes.
23 (d) "Individual" means a single human being and does
24 not mean a firm, association of individuals, corporation,
25 partnership, joint venture, sole proprietorship, or any other
26 entity.
27 (e) "Person" means a "person" as defined in s.
28 1.01(3).
29 (f) "Personal identification information" means any
30 name or number that may be used, alone or in conjunction with
31

1 any other information, to identify a specific individual,
2 including any:

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

9 2. Unique biometric data, such as fingerprint, voice
10 print, retina or iris image, or other unique physical
11 representation;

12 3. Unique electronic identification number, address,
13 or routing code; or

14 4. Telecommunication identifying information or access
15 device.

16 (2)(a) Any person who willfully and without
17 authorization fraudulently uses, or possesses with intent to
18 fraudulently use, personal identification information
19 concerning an individual without first obtaining that
20 individual's consent, commits the offense 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 (b) Any person who willfully and without authorization
25 fraudulently uses personal identification information
26 concerning an individual without first obtaining that
27 individual's consent commits a felony of the second degree,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084, if the pecuniary benefit, the value of the services
30 received, the payment sought to be avoided, or the amount of
31 the injury or fraud perpetrated is \$75,000 or more.

1 (3) Any person who willfully and without authorization
2 possesses, uses, or attempts to use personal identification
3 information concerning an individual without first obtaining
4 that individual's consent, and who does so for the purpose of
5 harassing that individual, commits the offense of harassment
6 by use of personal identification information, which is a
7 misdemeanor of the first degree, punishable as provided in s.
8 775.082 or s. 775.083.

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

13 (a) A misdemeanor of the first degree is reclassified
14 as a felony of the third degree.

15 (b) A felony of the third degree is reclassified as a
16 felony of the second degree.

17 (c) A felony of the second degree is reclassified as a
18 felony of the first degree.

19
20 For purposes of sentencing under chapter 921 and incentive
21 gain-time eligibility under chapter 944, a felony offense that
22 is reclassified under this subsection is ranked one level
23 above the ranking under s. 921.0022 of the felony offense
24 committed, and a misdemeanor offense that is reclassified
25 under this subsection is ranked in level 2 of the offense
26 severity ranking chart in s. 921.0022.

27 (5)~~(4)~~ This section does not prohibit any lawfully
28 authorized investigative, protective, or intelligence activity
29 of a law enforcement agency of this state or any of its
30 political subdivisions, of any other state or its political
31

1 subdivisions, or of the Federal Government or its political
2 subdivisions.

3 ~~(6)~~(5)(a) In sentencing a defendant convicted of an
4 offense under this section, the court may order that the
5 defendant make restitution pursuant to s. 775.089 to any
6 victim of the offense. In addition to the victim's
7 out-of-pocket costs, such restitution may include payment of
8 any other costs, including attorney's fees incurred by the
9 victim in clearing the victim's credit history or credit
10 rating, or any costs incurred in connection with any civil or
11 administrative proceeding to satisfy any debt, lien, or other
12 obligation of the victim arising as the result of the actions
13 of the defendant.

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

17 ~~(7)~~(6) Prosecutions for violations of this section may
18 be brought on behalf of the state by any state attorney or by
19 the statewide prosecutor.

20 (8) LEGISLATIVE FINDING. The Legislature finds that,
21 in the absence of evidence to the contrary, the location where
22 a victim gives or fails to give consent to the use of personal
23 identification information is the county where the victim
24 generally resides.

25 (9) Notwithstanding any other provision of law, venue
26 for the prosecution and trial of violations of this section
27 may be commenced and maintained in any county in which an
28 element of the offense occurred, including the county where
29 the victim generally resides.

30 (10) A prosecution of an offense prohibited under
31 subsection (2) must be commenced within 3 years after the

offense occurred. However, a prosecution may be commenced within 1 year after discovery of the offense by an aggrieved party, or by a person who has a legal duty to represent the aggrieved party and who is not a party to the offense, if such prosecution is commenced within 5 years after the violation occurred.

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

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

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(d) LEVEL 4
316.1935(3)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	3rd	Battery on detention or commitment facility staff.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.

1	784.081(3)	3rd	Battery on specified official or
2			employee.
3	784.082(3)	3rd	Battery by detained person on
4			visitor or other detainee.
5	784.083(3)	3rd	Battery on code inspector.
6	784.085	3rd	Battery of child by throwing,
7			tossing, projecting, or expelling
8			certain fluids or materials.
9	787.03(1)	3rd	Interference with custody;
10			wrongly takes child from
11			appointed guardian.
12	787.04(2)	3rd	Take, entice, or remove child
13			beyond state limits with criminal
14			intent pending custody
15			proceedings.
16	787.04(3)	3rd	Carrying child beyond state lines
17			with criminal intent to avoid
18			producing child at custody
19			hearing or delivering to
20			designated person.
21	790.115(1)	3rd	Exhibiting firearm or weapon
22			within 1,000 feet of a school.
23	790.115(2)(b)	3rd	Possessing electric weapon or
24			device, destructive device, or
25			other weapon on school property.
26	790.115(2)(c)	3rd	Possessing firearm on school
27			property.
28	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
29			offender less than 18 years.
30			
31			

1	810.02(4)(a)	3rd	Burglary, or attempted burglary,
2			of an unoccupied structure;
3			unarmed; no assault or battery.
4	810.02(4)(b)	3rd	Burglary, or attempted burglary,
5			of an unoccupied conveyance;
6			unarmed; no assault or battery.
7	810.06	3rd	Burglary; possession of tools.
8	810.08(2)(c)	3rd	Trespass on property, armed with
9			firearm or dangerous weapon.
10	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
11			or more but less than \$20,000.
12	812.014		
13	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
14			firearm, motor vehicle,
15			livestock, etc.
16	817.563(1)	3rd	Sell or deliver substance other
17			than controlled substance agreed
18			upon, excluding s. 893.03(5)
19			drugs.
20	<u>817.568(2)(a)</u>	<u>3rd</u>	<u>Fraudulent use of</u>
21			<u>personal-identification</u>
22			<u>information.</u>
23	828.125(1)	2nd	Kill, maim, or cause great bodily
24			harm or permanent breeding
25			disability to any registered
26			horse or cattle.
27	837.02(1)	3rd	Perjury in official proceedings.
28	837.021(1)	3rd	Make contradictory statements in
29			official proceedings.
30			
31			

1	843.021	3rd	Possession of a concealed
2			handcuff key by a person in
3			custody.
4	843.025	3rd	Deprive law enforcement,
5			correctional, or correctional
6			probation officer of means of
7			protection or communication.
8	843.15(1)(a)	3rd	Failure to appear while on bail
9			for felony (bond estreature or
10			bond jumping).
11	874.05(1)	3rd	Encouraging or recruiting another
12			to join a criminal street gang.
13	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
14			893.03(1)(a), (b), or (d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs).
17	914.14(2)	3rd	Witnesses accepting bribes.
18	914.22(1)	3rd	Force, threaten, etc., witness,
19			victim, or informant.
20	914.23(2)	3rd	Retaliation against a witness,
21			victim, or informant, no bodily
22			injury.
23	918.12	3rd	Tampering with jurors.
24			(e) LEVEL 5
25	316.027(1)(a)	3rd	Accidents involving personal
26			injuries, failure to stop;
27			leaving scene.
28	316.1935(4)	2nd	Aggravated fleeing or eluding.
29			
30			
31			

1	322.34(6)	3rd	Careless operation of motor
2			vehicle with suspended license,
3			resulting in death or serious
4			bodily injury.
5	327.30(5)	3rd	Vessel accidents involving
6			personal injury; leaving scene.
7	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
8			knowing HIV positive.
9	790.01(2)	3rd	Carrying a concealed firearm.
10	790.162	2nd	Threat to throw or discharge
11			destructive device.
12	790.163	2nd	False report of deadly explosive.
13	790.165(2)	3rd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.221(1)	2nd	Possession of short-barreled
16			shotgun or machine gun.
17	790.23	2nd	Felons in possession of firearms
18			or electronic weapons or devices.
19	800.04(6)(c)	3rd	Lewd or lascivious conduct;
20			offender less than 18 years.
21	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
22			offender 18 years or older.
23	806.111(1)	3rd	Possess, manufacture, or dispense
24			fire bomb with intent to damage
25			any structure or property.
26	812.019(1)	2nd	Stolen property; dealing in or
27			trafficking in.
28	812.131(2)(b)	3rd	Robbery by sudden snatching.
29	812.16(2)	3rd	Owning, operating, or conducting
30			a chop shop.
31			

1	817.034(4)(a)2.	2nd	Communications fraud, value
2			\$20,000 to \$50,000.
3	<u>817.568(2)(b)</u>	<u>2nd</u>	<u>Fraudulent use of personal</u>
4			<u>identification information; value</u>
5			<u>of benefit, services received,</u>
6			<u>payment avoided, or amount of</u>
7			<u>injury or fraud, \$75,000 or more.</u>
8	825.1025(4)	3rd	Lewd or lascivious exhibition in
9			the presence of an elderly person
10			or disabled adult.
11	827.071(4)	2nd	Possess with intent to promote
12			any photographic material, motion
13			picture, etc., which includes
14			sexual conduct by a child.
15	843.01	3rd	Resist officer with violence to
16			person; resist arrest with
17			violence.
18	874.05(2)	2nd	Encouraging or recruiting another
19			to join a criminal street gang;
20			second or subsequent offense.
21	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
22			cocaine (or other s.
23			893.03(1)(a), (1)(b), (1)(d),
24			(2)(a), (2)(b), or (2)(c)4.
25			drugs).
26			
27			
28			
29			
30			
31			

1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a child care facility or
8			school.
9	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
10			cocaine (or other s.
11			893.03(1)(a), (1)(b), (1)(d),
12			(2)(a), (2)(b), or (2)(c)4.
13			drugs) within 200 feet of
14			university or public park.
15	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
16			cannabis or other drug prohibited
17			under s. 893.03(1)(c), (2)(c)1.,
18			(2)(c)2., (2)(c)3., (2)(c)5.,
19			(2)(c)6., (2)(c)7., (2)(c)8.,
20			(2)(c)9., (3), or (4) within
21			1,000 feet of property used for
22			religious services or a specified
23			business site.
24	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
25			cocaine (or other s.
26			893.03(1)(a), (1)(b), (1)(d), or
27			(2)(a), (2)(b), or (2)(c)4.
28			drugs) within 200 feet of public
29			housing facility.
30			
31			

1 893.13(4)(b) 2nd Deliver to minor cannabis (or
2 other s. 893.03(1)(c), (2)(c)1.,
3 (2)(c)2., (2)(c)3., (2)(c)5.,
4 (2)(c)6., (2)(c)7., (2)(c)8.,
5 (2)(c)9., (3), or (4) drugs).

6 Section 3. This act shall take effect July 1, 2001.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31