

By Senator Burt

16-405-01

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 enhanced penalties for certain
 5 offenses involving the criminal use of
 6 personal-identification information if the
 7 offense was facilitated by the use of a public
 8 record; requiring that such offense be
 9 prosecuted in the county where the victim
 10 resides or in a county where any element of the
 11 offense occurred; limiting the time within
 12 which a person who fraudulently uses
 13 personal-identification information must be
 14 prosecuted; amending s. 921.0022, F.S.,
 15 relating to the the offense severity ranking
 16 chart of the Criminal Punishment Code;
 17 conforming provisions to changes made by the
 18 act; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 817.568, Florida Statutes, is
 23 amended to read:

24 817.568 Criminal use of personal identification
 25 information.--

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

27 (a) "Access device" means any card, plate, code,
 28 account number, electronic serial number, mobile
 29 identification number, personal identification number, or
 30 other telecommunications service, equipment, or instrument
 31 identifier, or other means of account access that can be used,

1 alone or in conjunction with another access device, to obtain
2 money, goods, services, or any other thing of value, or that
3 can be used to initiate a transfer of funds, other than a
4 transfer originated solely by paper instrument.

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

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

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

19 (e) "Person" means a "person" as defined in s.
20 1.01(3).

21 (f) "Personal identification information" means any
22 name or number that may be used, alone or in conjunction with
23 any other information, to identify a specific individual,
24 including any:

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

31

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

4 3. Unique electronic identification number, address,
5 or routing code; or

6 4. Telecommunication identifying information or access
7 device.

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

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

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

28 (a) A misdemeanor of the first degree is reclassified
29 as a felony of the third degree.

30 (b) A felony of the third degree is reclassified as a
31 felony of the second degree.

1 ~~(5)(4)~~ This section does not prohibit any lawfully
2 authorized investigative, protective, or intelligence activity
3 of a law enforcement agency of this state or any of its
4 political subdivisions, of any other state or its political
5 subdivisions, or of the Federal Government or its political
6 subdivisions.

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

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

21 ~~(7)(6)~~ Prosecutions for violations of this section may
22 be brought on behalf of the state by any state attorney or by
23 the statewide prosecutor.

24 (8) The proper venue for prosecuting a violation of
25 this section is the county where the victim resides or a
26 county in which any element of the violation was committed.

27 (9) A prosecution of an offense prohibited under
28 subsection (2) must be commenced within 3 years after the
29 offense occurred. However, a prosecution may be commenced
30 within 1 year after discovery of the offense by an aggrieved
31 party, or by a person who has a legal duty to represent the

1 aggrieved party and who is not a party to the offense, if such
2 prosecution is commenced within 5 years after the violation
3 occurred.

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

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

8 (3) OFFENSE SEVERITY RANKING CHART

10 Florida Statute	Felony Degree	Description
		(b) LEVEL 2
15 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
20 517.07	3rd	Registration of securities and furnishing of prospectus required.
23 590.28(1)	3rd	Willful, malicious, or intentional burning.
25 784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
29 787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.

1	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
2			or more to public communication
3			or any other public service.
4	810.09(2)(e)	3rd	Trespassing on posted commerical
5			horticulture property.
6	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
7			more but less than \$5,000.
8	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
9			more but less than \$300, taken
10			from unenclosed curtilage of
11			dwelling.
12	817.234(1)(a)2.	3rd	False statement in support of
13			insurance claim.
14	817.481(3)(a)	3rd	Obtain credit or purchase with
15			false, expired, counterfeit,
16			etc., credit card, value over
17			\$300.
18	817.52(3)	3rd	Failure to redeliver hired
19			vehicle.
20	817.54	3rd	With intent to defraud, obtain
21			mortgage note, etc., by false
22			representation.
23	<u>817.568(3)</u>	<u>3rd</u>	<u>Use of personal-identification</u>
24			<u>information facilitated by use of</u>
25			<u>a public record.</u>
26	817.60(5)	3rd	Dealing in credit cards of
27			another.
28	817.60(6)(a)	3rd	Forgery; purchase goods, services
29			with false card.
30			
31			

1	817.61	3rd	Fraudulent use of credit cards
2			over \$100 or more within 6
3			months.
4	826.04	3rd	Knowingly marries or has sexual
5			intercourse with person to whom
6			related.
7	831.01	3rd	Forgery.
8	831.02	3rd	Uttering forged instrument;
9			utters or publishes alteration
10			with intent to defraud.
11	831.07	3rd	Forging bank bills or promissory
12			note.
13	831.08	3rd	Possession of 10 or more forged
14			notes.
15	831.09	3rd	Uttering forged bills; passes as
16			bank bill or promissory note.
17	832.05(3)(a)	3rd	Cashing or depositing item with
18			intent to defraud.
19	843.08	3rd	Falsely impersonating an officer.
20	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
21			(2)(c)1., (2)(c)2., (2)(c)3.,
22			(2)(c)5., (2)(c)6., (2)(c)7.,
23			(2)(c)8., (2)(c)9., (3), or (4)
24			drugs other than cannabis.
25	893.147(2)	3rd	Manufacture or delivery of drug
26			paraphernalia.
27			(d) LEVEL 4
28			
29			
30			
31			

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

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

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

- 1 914.14(2) 3rd Witnesses accepting bribes.
- 2 914.22(1) 3rd Force, threaten, etc., witness,
- 3 victim, or informant.
- 4 914.23(2) 3rd Retaliation against a witness,
- 5 victim, or informant, no bodily
- 6 injury.
- 7 918.12 3rd Tampering with jurors.

8 Section 3. This act shall take effect July 1, 2001.

9
10 *****

11 SENATE SUMMARY

12 Enhances, from a first-degree misdemeanor to a
13 third-degree felony, the penalty for using or possessing
14 personal-identification information for the purpose of
15 harassment if the offense was facilitated by the use of a
16 public record. Enhances, from a third-degree felony to a
17 second-degree felony, the penalty for the fraudulent use
18 of personal-identification information if the offense was
19 facilitated by the use of a public record. Requires that
20 such offenses be prosecuted in the county where the
21 victim resides or in a county where any element of the
22 offense occurred. Requires that the fraudulent use of
23 personal-identification information be prosecuted within
24 certain specified periods.
25
26
27
28
29
30
31