

By Senator Burt

16-411-01

1                                   A bill to be entitled  
2           An act relating to criminal activities;  
3           creating the White-Collar-Crime Victim  
4           Protection Act; providing legislative intent;  
5           providing definitions; specifying crimes and  
6           acts that constitute a white-collar crime;  
7           providing that a person commits an aggravated  
8           white-collar crime if the white-collar crime is  
9           committed against certain persons or against a  
10          state agency or political subdivision;  
11          providing enhanced penalties for aggravated  
12          white-collar crimes; requiring that a defendant  
13          convicted of an aggravated white-collar crime  
14          pay court costs and restitution; requiring that  
15          payment of restitution be a condition of  
16          probation; amending s. 910.15, F.S.; providing  
17          that a communication made by or through the use  
18          of the Internet was made in every county of the  
19          state for purposes of prosecuting certain  
20          fraudulent practices; providing for  
21          severability; providing an effective date.

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

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25           Section 1. White-Collar-Crime Victim Protection Act.--

26           (1) This section may be cited as the

27 "White-Collar-Crime Victim Protection Act."

28           (2) Due to the frequency with which victims,  
29 particularly elderly victims, are deceived and cheated by  
30 criminals who commit nonviolent frauds and swindles,  
31 frequently through the use of the Internet and other

1 electronic technology and frequently causing the loss of  
2 substantial amounts of property, it is the intent of the  
3 Legislature to enhance the sanctions imposed for nonviolent  
4 frauds and swindles, protect the public's property, and assist  
5 in prosecuting white-collar criminals.

6 (3) As used in this section, the term "white-collar  
7 crime" means:

8 (a) The commission of, or a conspiracy to commit, any  
9 felony offense specified in:

10 1. Chapter 560, Florida Statutes, relating to the  
11 Money Transmitters' Code.

12 2. Chapter 812, Florida Statutes, relating to theft,  
13 robbery, and related crimes.

14 3. Chapter 815, Florida Statutes, relating to  
15 computer-related crimes.

16 4. Chapter 817, Florida Statutes, relating to  
17 fraudulent practices.

18 5. Chapter 825, Florida Statutes, relating to abuse,  
19 neglect, and exploitation of elderly persons and disabled  
20 adults.

21 6. Chapter 831, Florida Statutes, relating to forgery  
22 and counterfeiting.

23 7. Chapter 832, Florida Statutes, relating to the  
24 issuance of worthless checks and drafts.

25 8. Chapter 838, Florida Statutes, relating to bribery  
26 and misuse of public office.

27 9. Chapter 839, Florida Statutes, relating to offenses  
28 by public officers and employees.

29 10. Chapter 895, Florida Statutes, relating to  
30 offenses concerning racketeering and illegal debts.

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1           11. Chapter 896, Florida Statutes, relating to  
2 offenses related to financial transactions.

3           (b) A felony offense that is committed with intent to  
4 defraud or that involves a conspiracy to defraud.

5           (c) A felony offense that is committed with intent to  
6 temporarily or permanently deprive a person of his or her  
7 property or that involves a conspiracy to temporarily or  
8 permanently deprive a person of his or her property.

9           (d) A felony offense that involves or results in the  
10 commission of fraud or deceit upon a person or that involves a  
11 conspiracy to commit fraud or deceit upon a person.

12           (4) A person commits an aggravated white-collar crime,  
13 punishable as provided in section 775.082, section 775.083, or  
14 section 775.084, Florida Statutes, if the person, in  
15 committing a white-collar crime, obtains or attempts to obtain  
16 \$100,000 or more and victimizes:

17           (a) Ten or more elderly persons, as defined in section  
18 825.101, Florida Statutes;

19           (b) Twenty or more persons; or

20           (c) Any state agency or political subdivision of the  
21 state.

22           (5) Notwithstanding the ranking of an offense  
23 described in subsection (3) at a particular level within the  
24 offense severity ranking chart and notwithstanding any other  
25 provision of chapter 921, Florida Statutes, or any other law,  
26 a felony shall be ranked as follows within the offense  
27 severity ranking chart if the felony is an aggravated  
28 white-collar crime:

29           (a) A third-degree felony is ranked in level 7.

30           (b) A second-degree felony is ranked in level 8.

31           (c) A first-degree felony is ranked in level 9.

1           (6) In addition to a sentence otherwise authorized by  
2 law, a person convicted of an aggravated white-collar crime  
3 shall pay a fine of \$500,000 or double the value of the  
4 pecuniary gain or loss, whichever is greater.

5           (7) A defendant convicted of an aggravated  
6 white-collar crime under this section is liable for all court  
7 costs and shall pay restitution to each victim of the crime,  
8 regardless of whether the victim is named in the information  
9 or indictment. As used in this subsection, the term "victim"  
10 means a person directly and proximately harmed as a result of  
11 the commission of the offense for which restitution may be  
12 ordered, including, in the case of an offense that involves a  
13 scheme, conspiracy, or pattern of criminal activity, any  
14 person directly harmed by the defendant's criminal conduct in  
15 the course of the scheme, conspiracy, or pattern of criminal  
16 activity. The court shall hold a hearing to determine the  
17 identity of qualifying victims and shall order the defendant  
18 to pay restitution based on his or her ability to pay, in  
19 accordance with this section and section 775.089, Florida  
20 Statutes.

21           (a) The court shall make the payment of restitution a  
22 condition of any probation granted to the defendant by the  
23 court. Notwithstanding any other law, the court may order  
24 continued probation for a defendant convicted under this  
25 section for up to 10 years or until full restitution is made  
26 to the victim, whichever occurs earlier.

27           (b) The court retains jurisdiction to enforce its  
28 order to pay fines or restitution. The court may initiate  
29 proceedings against a defendant for a violation of probation  
30 or for contempt of court if the defendant willfully fails to  
31 comply with a lawful order of the court.

1 Section 2. Section 910.15, Florida Statutes, is  
2 amended to read:

3 910.15 Theft and fraudulent practices concerning  
4 communication systems.--

5 (1) A person charged with committing:

6 (a) A fraudulent practice in a manner in which it may  
7 reasonably be assumed that a communication made to facilitate  
8 the fraudulent practice, solicitation or a false or misleading  
9 representation, could or would be disseminated across  
10 jurisdictional lines; or

11 (b) A theft involving the use of the mail, telephone,  
12 newspaper, radio, television, or other means of communication,  
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14 may be tried in the county in which the dissemination  
15 originated, in which the dissemination was made, or in which  
16 any the last act necessary to consummate the offense occurred.

17 (2) For purposes of this section, if a communication  
18 is made by or made available through the use of the Internet,  
19 the communication was made in every county within the state.

20 Section 3. If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 invalidity does not affect other provisions or applications of  
23 the act which can be given effect without the invalid  
24 provision or application, and to this end the provisions of  
25 this act are severable.

26 Section 4. This act shall take effect July 1, 2001.  
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SENATE SUMMARY

Creates the White-Collar-Crime Victim Protection Act. Specifies crimes and acts that constitute a white-collar crime. Provides that an aggravated white-collar crime is a white-collar crime committed against 10 or more elderly persons, 20 or more persons, or a state agency or political subdivision. Provides enhanced penalties for aggravated white-collar crimes. Requires that the court make payment of restitution a condition of probation for a person convicted of committing an aggravated white-collar crime. Provides that, for purposes of prosecuting fraudulent practices concerning communication systems, a communication made by or through the use of the Internet was made in every county of the state.