

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; amending s. 921.0022,  
21          F.S.; adding certain aggravated white collar  
22          crimes to the Criminal Punishment Code offense  
23          severity ranking chart; providing for  
24          severability; providing an effective date.

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

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28           Section 1. Section 775.0844, Florida Statutes, is  
29 created to read:

30           775.0844 White Collar Crime Victim Protection Act.--  
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1           (1) This section may be cited as the "White Collar  
2 Crime Victim Protection Act."

3           (2) Due to the frequency with which victims,  
4 particularly elderly victims, are deceived and cheated by  
5 criminals who commit nonviolent frauds and swindles,  
6 frequently through the use of the Internet and other  
7 electronic technology and frequently causing the loss of  
8 substantial amounts of property, it is the intent of the  
9 Legislature to enhance the sanctions imposed for nonviolent  
10 frauds and swindles, protect the public's property, and assist  
11 in prosecuting white collar criminals.

12           (3) As used in this section, "white collar crime"  
13 means:

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

16                 1. Chapter 560, relating to the Money Transmitters'  
17 Code.

18                 2. Chapter 812, relating to theft, robbery, and  
19 related crimes.

20                 3. Chapter 815, relating to computer-related crimes.

21                 4. Chapter 817, relating to fraudulent practices.

22                 5. Chapter 825, relating to abuse, neglect, and  
23 exploitation of elderly persons and disabled adults.

24                 6. Chapter 831, relating to forgery and  
25 counterfeiting.

26                 7. Chapter 832, relating to the issuance of worthless  
27 checks and drafts.

28                 8. Chapter 838, relating to bribery and misuse of  
29 public office.

30                 9. Chapter 839, relating to offenses by public  
31 officers and employees.

1           10. Chapter 895, relating to offenses concerning  
2 racketeering and illegal debts.

3           11. Chapter 896, relating to offenses related to  
4 financial transactions.

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

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

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

14           (4) As used in this section, "aggravated white collar  
15 crime" means engaging in at least two white collar crimes that  
16 have the same or similar intents, results, accomplices,  
17 victims, or methods of commission, or that are otherwise  
18 interrelated by distinguishing characteristics and are not  
19 isolated incidents, provided that at least one of such crimes  
20 occurred after the effective date of this act.

21           (5) Any person who commits an aggravated white collar  
22 crime as defined in this section and in so doing either:

23           (a) Victimizes 10 or more elderly persons, as defined  
24 in s. 825.101(5);

25           (b) Victimizes 20 or more persons, as defined in s.  
26 1.01; or

27           (c) Victimizes the State of Florida, any state agency,  
28 any of the state's political subdivisions, or any agency of  
29 the state's political subdivisions,

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1 and thereby obtains or attempts to obtain \$50,000 or more,  
2 commits a felony of the first degree, punishable as provided  
3 in s. 775.082, s. 775.083, or 775.084.

4 (6) Notwithstanding any other provision of chapter 921  
5 or any other law, an aggravated white collar crime shall be  
6 ranked within the offense severity ranking chart at offense  
7 severity level 9.

8 (7) In addition to a sentence otherwise authorized by  
9 law, a person convicted of an aggravated white collar crime  
10 may pay a fine of \$500,000 or double the value of the  
11 pecuniary gain or loss, whichever is greater.

12 (8) A person convicted of an aggravated white collar  
13 crime under this section is liable for all court costs and  
14 shall pay restitution to each victim of the crime, regardless  
15 of whether the victim is named in the information or  
16 indictment. As used in this subsection, "victim" means a  
17 person directly and proximately harmed as a result of the  
18 commission of the offense for which restitution may be  
19 ordered, including any person directly harmed by the  
20 defendant's criminal conduct in the course of the commission  
21 of the aggravated white collar crime. The court shall hold a  
22 hearing to determine the identity of qualifying victims and  
23 shall order the defendant to pay restitution based on his or  
24 her ability to pay, in accordance with this section and s.  
25 775.089.

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

1           (b) The court retains jurisdiction to enforce its  
 2 order to pay fines or restitution. The court may initiate  
 3 proceedings against a defendant for a violation of probation  
 4 or for contempt of court if the defendant willfully fails to  
 5 comply with a lawful order of the court.

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

8           910.15 Theft and fraudulent practices concerning  
 9 communication systems.--

10           (1) A person charged with committing:

11           (a) A fraudulent practice in a manner in which it may  
 12 reasonably be assumed that a communication made to facilitate  
 13 the fraudulent practice, ~~solicitation~~ or a false or misleading  
 14 representation, could or would be disseminated across  
 15 jurisdictional lines; ~~or~~

16           (b) A theft involving the use of the mail, telephone,  
 17 newspaper, radio, television, or other means of communication,  
 18  
 19 may be tried in the county in which the dissemination  
 20 originated, in which the dissemination was made, or in which  
 21 any ~~the last~~ act necessary to consummate the offense occurred.

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

25           Section 3. Paragraph (i) of subsection (3) of section  
 26 921.0022, Florida Statutes, is amended to read:

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

29           (3) OFFENSE SEVERITY RANKING CHART

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1 2 3 4 5 6 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	Florida Statute	Felony Degree	Description
			(i) LEVEL 9
	316.193		
	(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
	<u>755.0844</u>	<u>1st</u>	<u>Aggravated white collar crime.</u>
	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

1	782.07(2)	1st	Aggravated manslaughter of an
2			elderly person or disabled adult.
3	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
4			reward or as a shield or hostage.
5	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
6			or facilitate commission of any
7			felony.
8	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
9			interfere with performance of any
10			governmental or political
11			function.
12	787.02(3)(a)	1st	False imprisonment; child under
13			age 13; perpetrator also commits
14			aggravated child abuse, sexual
15			battery, or lewd or lascivious
16			battery, molestation, conduct, or
17			exhibition.
18	790.161	1st	Attempted capital destructive
19			device offense.
20	790.166(2)	1st,PBL	Possessing, selling, using, or
21			attempting to use a weapon of
22			mass destruction.
23	794.011(2)	1st	Attempted sexual battery; victim
24			less than 12 years of age.
25	794.011(2)	Life	Sexual battery; offender younger
26			than 18 years and commits sexual
27			battery on a person less than 12
28			years.
29	794.011(4)	1st	Sexual battery; victim 12 years
30			or older, certain circumstances.
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1	794.011(8)(b)	1st	Sexual battery; engage in sexual
2			conduct with minor 12 to 18 years
3			by person in familial or
4			custodial authority.
5	800.04(5)(b)	1st	Lewd or lascivious molestation;
6			victim less than 12 years;
7			offender 18 years or older.
8	812.13(2)(a)	1st,PBL	Robbery with firearm or other
9			deadly weapon.
10	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
11			deadly weapon.
12	827.03(2)	1st	Aggravated child abuse.
13	847.0145(1)	1st	Selling, or otherwise
14			transferring custody or control,
15			of a minor.
16	847.0145(2)	1st	Purchasing, or otherwise
17			obtaining custody or control, of
18			a minor.
19	859.01	1st	Poisoning food, drink, medicine,
20			or water with intent to kill or
21			injure another person.
22	893.135	1st	Attempted capital trafficking
23			offense.
24	893.135(1)(a)3.	1st	Trafficking in cannabis, more
25			than 10,000 lbs.
26	893.135		
27	(1)(b)1.c.	1st	Trafficking in cocaine, more than
28			400 grams, less than 150
29			kilograms.
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1	893.135		
2	(1)(c)1.c.	1st	Trafficking in illegal drugs,
3			more than 28 grams, less than 30
4			kilograms.
5	893.135		
6	(1)(d)1.c.	1st	Trafficking in phencyclidine,
7			more than 400 grams.
8	893.135		
9	(1)(e)1.c.	1st	Trafficking in methaqualone, more
10			than 25 kilograms.
11	893.135		
12	(1)(f)1.c.	1st	Trafficking in amphetamine, more
13			than 200 grams.
14	893.135		
15	(1)(h)1.c.	1st	Trafficking in
16			gamma-hydroxybutyric acid (GHB),
17			10 kilograms or more.
18	893.135		
19	(1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10
20			kilograms or more.
21	893.135		
22	(1)(j)2.c.	1st	Trafficking in Phenethylamines,
23			400 grams or more.
24	896.101(5)(c)	1st	Money laundering, financial
25			instruments totaling or exceeding
26			\$100,000.
27	896.104(4)(a)3.	1st	Structuring transactions to evade
28			reporting or registration
29			requirements, financial
30			transactions totaling or
31			exceeding \$100,000.

1           Section 4. If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 invalidity does not affect other provisions or applications of  
4 the act which can be given effect without the invalid  
5 provision or application, and to this end the provisions of  
6 this act are severable.

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

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