

By Senator Campbell

33-432-01

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.; providing that the willful and
5 fraudulent use of personal identification
6 information of another individual is a felony
7 of the second degree if the value of the
8 pecuniary benefit resulting from such use is of
9 a specified amount or more; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 817.568, Florida Statutes, is
15 amended to read:

16 817.568 Criminal use of personal identification
17 information.--

18 (1) As used in this section:

19 (a) "Access device" means any card, plate, code,
20 account number, electronic serial number, mobile
21 identification number, personal identification number, or
22 other telecommunications service, equipment, or instrument
23 identifier, or other means of account access that can be used,
24 alone or in conjunction with another access device, to obtain
25 money, goods, services, or any other thing of value, or that
26 can be used to initiate a transfer of funds, other than a
27 transfer originated solely by paper instrument.

28 (b) "Authorization" means empowerment, permission, or
29 competence to act.

30 (c) "Harass" means to engage in conduct directed at a
31 specific person that is intended to cause substantial

1 emotional distress to such person and serves no legitimate
2 purpose. "Harass" does not mean to use personal identification
3 information for accepted commercial purposes. The term does
4 not include constitutionally protected conduct such as
5 organized protests or the use of personal identification
6 information for accepted commercial purposes.

7 (d) "Individual" means a single human being and does
8 not mean a firm, association of individuals, corporation,
9 partnership, joint venture, sole proprietorship, or any other
10 entity.

11 (e) "Person" means a "person" as defined in s.
12 1.01(3).

13 (f) "Personal identification information" means any
14 name or number that may be used, alone or in conjunction with
15 any other information, to identify a specific individual,
16 including any:

17 1. Name, social security number, date of birth,
18 official state-issued or United States-issued driver's license
19 or identification number, alien registration number,
20 government passport number, employer or taxpayer
21 identification number, or Medicaid or food stamp account
22 number;

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

26 3. Unique electronic identification number, address,
27 or routing code; or

28 4. Telecommunication identifying information or access
29 device.

30 (2)(a) Any person who willfully and without
31 authorization fraudulently uses, or possesses with intent to

1 fraudulently use, personal identification information
2 concerning an individual without first obtaining that
3 individual's consent, commits the offense of fraudulent use of
4 personal identification information, which is a felony of the
5 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 (b) Any person who willfully and without authorization
8 fraudulently uses personal identification information
9 concerning an individual without first obtaining that
10 individual's consent commits a felony of the second degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084, if the pecuniary benefit, the value of the services
13 received, the payment sought to be avoided, or the amount of
14 the injury or fraud perpetrated is \$75,000 or more.

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

23 (4) This section does not prohibit any lawfully
24 authorized investigative, protective, or intelligence activity
25 of a law enforcement agency of this state or any of its
26 political subdivisions, of any other state or its political
27 subdivisions, or of the Federal Government or its political
28 subdivisions.

29 (5)(a) In sentencing a defendant convicted of an
30 offense under this section, the court may order that the
31 defendant make restitution pursuant to s. 775.089 to any

1 victim of the offense. In addition to the victim's
2 out-of-pocket costs, such restitution may include payment of
3 any other costs, including attorney's fees incurred by the
4 victim in clearing the victim's credit history or credit
5 rating, or any costs incurred in connection with any civil or
6 administrative proceeding to satisfy any debt, lien, or other
7 obligation of the victim arising as the result of the actions
8 of the defendant.

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

12 (6) Prosecutions for violations of this section may be
13 brought on behalf of the state by any state attorney or by the
14 statewide prosecutor.

15 Section 2. This act shall take effect October 1, 2001.

16

17 *****

18 SENATE SUMMARY

19 Provides that a person who fraudulently uses the personal
20 identification information of another commits a
21 second-degree felony if the pecuniary benefit, value of
services received, or amount of the fraud is \$75,000 or
more.

22

23

24

25

26

27

28

29

30

31