

CHAMBER ACTION

1 The Committee on Appropriations recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to aggravated white collar crime; amending
7 s. 775.0844, F.S.; including Medicaid provider fraud
8 within the definition of a white collar crime; providing
9 criminal penalties; providing a minimum mandatory term of
10 imprisonment for committing an aggravated white collar
11 crime involving Medicaid provider fraud, or an intent to
12 defraud, and involving a specified number of persons or
13 the state or a political subdivision thereof; amending s.
14 921.0022, F.S.; revising provisions related to the offense
15 severity ranking chart of the Criminal Punishment Code, to
16 conform; providing applicability; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 775.0844, Florida Statutes, is amended
22 to read:

23 775.0844 White Collar Crime Victim Protection Act.--

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24 (1) This section may be cited as the "White Collar Crime
25 Victim Protection Act."

26 (2) Due to the frequency with which victims, particularly
27 elderly victims, are deceived and cheated by criminals who
28 commit nonviolent frauds and swindles, frequently through the
29 use of the Internet and other electronic technology and
30 frequently causing the loss of substantial amounts of property,
31 it is the intent of the Legislature to enhance the sanctions
32 imposed for nonviolent frauds and swindles, protect the public's
33 property, and assist in prosecuting white collar criminals.

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

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

37 1. Section 409.920, relating to Medicaid provider fraud.

38 ~~2.1.~~ Chapter 560, relating to the Money Transmitters'
39 Code.

40 ~~3.2.~~ Chapter 812, relating to theft, robbery, and related
41 crimes.

42 ~~4.3.~~ Chapter 815, relating to computer-related crimes.

43 ~~5.4.~~ Chapter 817, relating to fraudulent practices.

44 ~~6.5.~~ Chapter 825, relating to abuse, neglect, and
45 exploitation of elderly persons and disabled adults.

46 ~~7.6.~~ Chapter 831, relating to forgery and counterfeiting.

47 ~~8.7.~~ Chapter 832, relating to the issuance of worthless
48 checks and drafts.

49 ~~9.8.~~ Chapter 838, relating to bribery and misuse of public
50 office.

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51 10.9. Chapter 839, relating to offenses by public officers
52 and employees.

53 11.10. Chapter 895, relating to offenses concerning
54 racketeering and illegal debts.

55 12.11. Chapter 896, relating to offenses related to
56 financial transactions.

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

59 (c) A felony offense that is committed with intent to
60 temporarily or permanently deprive a person of his or her
61 property or that involves a conspiracy to temporarily or
62 permanently deprive a person of his or her property.

63 (d) A felony offense that involves or results in the
64 commission of fraud or deceit upon a person or that involves a
65 conspiracy to commit fraud or deceit upon a person.

66 (4) As used in this section, "aggravated white collar
67 crime" means engaging in at least two white collar crimes that
68 have the same or similar intents, results, accomplices, victims,
69 or methods of commission, or that are otherwise interrelated by
70 distinguishing characteristics and are not isolated incidents,
71 provided that at least one of the ~~such~~ crimes occurred after the
72 effective date of this act.

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

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

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

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79 (c) Victimizes the State of Florida, any state agency, any
80 of the state's political subdivisions, or any agency of the
81 state's political subdivisions,

82
83 and thereby obtains or attempts to obtain \$50,000 or more,
84 commits a felony of the first degree, punishable as provided in
85 s. 775.082, s. 775.083, or s. 775.084.

86 (6) A person who commits an aggravated white collar crime
87 as defined in this section in which at least one of the white
88 collar crimes committed is a violation of s. 409.920 or is a
89 white collar crime in which an intent to defraud is an element,
90 and which, alone or in combination with another violation of s.
91 409.920 or a white collar crime in which an intent to defraud is
92 an element:

93 (a) Victimizes 20 or more persons, as defined in s. 1.01;
94 or

95 (b) Victimizes the State of Florida, any state agency, any
96 of the state's political subdivisions, or any agency of the
97 state's political subdivisions,

98
99 commits a felony of the first degree, punishable as provided in
100 s. 775.082, s. 775.083, or s. 775.084, and such person shall be
101 sentenced to a minimum mandatory period of incarceration of 10
102 years.

103 (7)+(6) Notwithstanding any other provision of chapter 921
104 or any other law, an aggravated white collar crime shall be
105 ranked within the offense severity ranking chart at offense
106 severity level 9.

107 (8)~~(7)~~ In addition to a sentence otherwise authorized by
 108 law, a person convicted of an aggravated white collar crime may
 109 pay a fine of \$500,000 or double the value of the pecuniary gain
 110 or loss, whichever is greater.

111 (9)~~(8)~~ A person convicted of an aggravated white collar
 112 crime under this section is liable for all court costs and shall
 113 pay restitution to each victim of the crime, regardless of
 114 whether the victim is named in the information or indictment. As
 115 used in this subsection, "victim" means a person directly and
 116 proximately harmed as a result of the commission of the offense
 117 for which restitution may be ordered, including any person
 118 directly harmed by the defendant's criminal conduct in the
 119 course of the commission of the aggravated white collar crime.
 120 The court shall hold a hearing to determine the identity of
 121 qualifying victims and shall order the defendant to pay
 122 restitution based on his or her ability to pay, in accordance
 123 with this section and s. 775.089.

124 (a) The court shall make the payment of restitution a
 125 condition of any probation granted to the defendant by the
 126 court. Notwithstanding any other law, the court may order
 127 continued probation for a defendant convicted under this section
 128 for up to 10 years or until full restitution is made to the
 129 victim, whichever occurs earlier.

130 (b) The court retains jurisdiction to enforce its order to
 131 pay fines or restitution. The court may initiate proceedings
 132 against a defendant for a violation of probation or for contempt
 133 of court if the defendant willfully fails to comply with a
 134 lawful order of the court.

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135 Section 2. Paragraph (i) of subsection (3) of section
136 921.0022, Florida Statutes, is amended to read:

137 921.0022 Criminal Punishment Code; offense severity
138 ranking chart.--

139 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

140 (i) LEVEL 9

141 316.193(3)(c)3.b. 1st DUI manslaughter; failing to render
aid or give information.

142 327.35(3)(c)3.b. 1st BUI manslaughter; failing to render
aid or give information.

143 499.0053 1st Sale or purchase of contraband
legend drugs resulting in great
bodily harm.

144 560.123(8)(b)3. 1st Failure to report currency or
payment instruments totaling or
exceeding \$100,000 by money
transmitter.

145 560.125(5)(c) 1st Money transmitter business by
unauthorized person, currency, or
payment instruments totaling or
exceeding \$100,000.

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147	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
148	<u>775.0844(5) & (6)</u>	1st	Aggravated white collar crime.
149	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
150	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
151	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
152	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
153	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
154	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.

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155	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
156	790.161	1st	Attempted capital destructive device offense.
157	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
158	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
159	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
160	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
161	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

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163	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
164	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
165	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
166	817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
167	827.03(2)	1st	Aggravated child abuse.
168	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
169	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
170	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.

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171	893.135	1st	Attempted capital trafficking offense.
172	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
173	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
174	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
175	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
176	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
177	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
178	893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
179	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
180	893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.

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896.101(5)(c) 1st Money laundering, financial instruments totaling or exceeding \$100,000.

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896.104(4)(a)3. 1st Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

183 Section 3. This act shall take effect July 1, 2004, and
184 shall apply to offenses committed on or after that date.