

1 A bill to be entitled

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

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 775.0844, Florida Statutes, is amended  
18 to read:

19 775.0844 White Collar Crime Victim Protection Act.--

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

22 (2) Due to the frequency with which victims, particularly  
23 elderly victims, are deceived and cheated by criminals who  
24 commit nonviolent frauds and swindles, frequently through the  
25 use of the Internet and other electronic technology and  
26 frequently causing the loss of substantial amounts of property,  
27 it is the intent of the Legislature to enhance the sanctions

28 | imposed for nonviolent frauds and swindles, protect the public's  
 29 | property, and assist in prosecuting white collar criminals.

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

31 | (a) The commission of, or a conspiracy to commit, any  
 32 | felony offense specified in:

33 | 1. Section 409.920, relating to Medicaid provider fraud.

34 | ~~2.1.~~ Chapter 560, relating to the Money Transmitters'  
 35 | Code.

36 | ~~3.2.~~ Chapter 812, relating to theft, robbery, and related  
 37 | crimes.

38 | ~~4.3.~~ Chapter 815, relating to computer-related crimes.

39 | ~~5.4.~~ Chapter 817, relating to fraudulent practices.

40 | ~~6.5.~~ Chapter 825, relating to abuse, neglect, and  
 41 | exploitation of elderly persons and disabled adults.

42 | ~~7.6.~~ Chapter 831, relating to forgery and counterfeiting.

43 | ~~8.7.~~ Chapter 832, relating to the issuance of worthless  
 44 | checks and drafts.

45 | ~~9.8.~~ Chapter 838, relating to bribery and misuse of public  
 46 | office.

47 | ~~10.9.~~ Chapter 839, relating to offenses by public officers  
 48 | and employees.

49 | ~~11.10.~~ Chapter 895, relating to offenses concerning  
 50 | racketeering and illegal debts.

51 | ~~12.11.~~ Chapter 896, relating to offenses related to  
 52 | financial transactions.

53 | (b) A felony offense that is committed with intent to  
 54 | defraud or that involves a conspiracy to defraud.

55 (c) A felony offense that is committed with intent to  
56 temporarily or permanently deprive a person of his or her  
57 property or that involves a conspiracy to temporarily or  
58 permanently deprive a person of his or her property.

59 (d) A felony offense that involves or results in the  
60 commission of fraud or deceit upon a person or that involves a  
61 conspiracy to commit fraud or deceit upon a person.

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

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

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

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

75 (c) Victimizes the State of Florida, any state agency, any  
76 of the state's political subdivisions, or any agency of the  
77 state's political subdivisions,

78  
79 and thereby obtains or attempts to obtain \$50,000 or more,  
80 commits a felony of the first degree, punishable as provided in  
81 s. 775.082, s. 775.083, or s. 775.084.

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

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

91        (b) Victimizes the State of Florida, any state agency, any  
 92 of the state's political subdivisions, or any agency of the  
 93 state's political subdivisions,

94  
 95 commits a felony of the first degree, punishable as provided in  
 96 s. 775.082, s. 775.083, or s. 775.084, and such person shall be  
 97 sentenced to a minimum mandatory period of incarceration of 10  
 98 years.

99        (7)(6) Notwithstanding any other provision of chapter 921  
 100 or any other law, an aggravated white collar crime shall be  
 101 ranked within the offense severity ranking chart at offense  
 102 severity level 9.

103        (8)(7) In addition to a sentence otherwise authorized by  
 104 law, a person convicted of an aggravated white collar crime may  
 105 pay a fine of \$500,000 or double the value of the pecuniary gain  
 106 or loss, whichever is greater.

107        (9)(8) A person convicted of an aggravated white collar  
 108 crime under this section is liable for all court costs and shall  
 109 pay restitution to each victim of the crime, regardless of

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

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

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

131 Section 2. Paragraph (i) of subsection (3) of section  
 132 921.0022, Florida Statutes, is amended to read:

133 921.0022 Criminal Punishment Code; offense severity  
 134 ranking chart.--

135 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

136			(i) LEVEL 9
137	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
138	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
139	499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
140	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
141	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
142	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
143	775.0844 <u>(5) &amp; (6)</u>	1st	Aggravated white collar crime.
144	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.

- 145 782.04(3) 1st,PBL Accomplice to murder in connection  
with arson, sexual battery, robbery,  
burglary, and other specified  
felonies.
- 146 782.051(1) 1st Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony enumerated in s.  
782.04(3).
- 147 782.07(2) 1st Aggravated manslaughter of an  
elderly person or disabled adult.
- 148 787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or  
reward or as a shield or hostage.
- 149 787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or  
facilitate commission of any felony.
- 150 787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere  
with performance of any governmental  
or political function.
- 151 787.02(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.

152	790.161	1st	Attempted capital destructive device offense.
153	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
154	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
155	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
156	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
157	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
158	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
159	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.

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161	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
162	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.
163	827.03(2)	1st	Aggravated child abuse.
164	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
165	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
166	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.
167	893.135	1st	Attempted capital trafficking offense.
168	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.

169	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
170	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
171	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
172	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
173	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
174	893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
175	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
176	893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
177	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
	896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration

requirements, financial transactions  
totaling or exceeding \$100,000.

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