

By Senator Bennett

21-1508-04

1 A bill to be entitled
2 An act relating to fraudulent practices;
3 amending s. 322.051, F.S.; increasing the
4 penalty for persons 21 years of age or older
5 for prohibited acts relating to identification
6 cards; amending s. 322.212, F.S.; increasing
7 the penalty for certain prohibited acts
8 relating to drivers' licenses and
9 identification cards; amending s. 817.568,
10 F.S.; increasing the penalty for certain acts
11 relating to the criminal use of personal
12 identification information; amending s.
13 921.0022, F.S., relating to the Criminal
14 Punishment Code; conforming provisions to
15 changes made by the act; amending s. 775.0844,
16 F.S.; expanding the definition of aggravated
17 white collar crime relating to fraudulent
18 behavior; providing criminal penalties;
19 creating a minimum mandatory term of
20 imprisonment; providing an effective date.

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

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24 Section 1. Subsection (6) of section 322.051, Florida
25 Statutes, is amended to read:

26 322.051 Identification cards.--

27 (6) It is unlawful for any person:

28 (a) To display, cause or permit to be displayed, or
29 have in his or her possession any fictitious, fraudulently
30 altered, or fraudulently obtained identification card.

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1 (b) To lend his or her identification card to any
2 other person or knowingly permit the use thereof by another.

3 (c) To display or represent any identification card
4 not issued to him or her as being his or her card.

5 (d) To permit any unlawful use of an identification
6 card issued to him or her.

7 (e) To do any act forbidden, or fail to perform any
8 act required, by this section.

9 (f) To photograph, photostat, duplicate, or in any way
10 reproduce any identification card or facsimile thereof in such
11 a manner that it could be mistaken for a valid identification
12 card, or to display or have in his or her possession any such
13 photograph, photostat, duplicate, reproduction, or facsimile
14 unless authorized by the provisions of this section.

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16 A person 21 years of age or older who violates this subsection
17 commits a misdemeanor of the first degree, punishable as
18 provided in s. 775.082 or s. 775.083.

19 Section 2. Subsection (6) of section 322.212, Florida
20 Statutes, is amended to read:

21 322.212 Unauthorized possession of, and other unlawful
22 acts in relation to, driver's license or identification
23 card.--

24 (6) Except as otherwise provided in this subsection,
25 any person who violates ~~any of the provisions of~~ this section
26 commits is guilty of a felony of the second ~~third~~ degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084. A ~~Any~~ person who violates paragraph (5)(a) by giving
29 a false age in any application for a driver's license or
30 identification card or who violates paragraph (5)(b) by
31 possessing a driver's license, identification card, or any

1 instrument in the similitude thereof, on which the date of
2 birth has been altered commits ~~is guilty of~~ a misdemeanor of
3 the second degree, punishable as provided in s. 775.082 or s.
4 775.083. A ~~Any~~ person who violates paragraph (1)(d) commits a
5 felony of the second ~~third~~ degree, punishable as provided in
6 s. 775.082, s. 775.083, or s. 775.084.

7 Section 3. Paragraph (a) of subsection (2) of section
8 817.568, Florida Statutes, is amended to read:

9 817.568 Criminal use of personal identification
10 information.--

11 (2)(a) Any person who willfully and without
12 authorization fraudulently uses, or possesses with intent to
13 fraudulently use, personal identification information
14 concerning an individual without first obtaining that
15 individual's consent, commits the offense of fraudulent use of
16 personal identification information, which is a felony of the
17 second ~~third~~ degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084.

19 Section 4. Paragraphs (a) and (d) of subsection (3) of
20 section 921.0022, Florida Statutes, are amended to read:

21 921.0022 Criminal Punishment Code; offense severity
22 ranking chart.--

23 (3) OFFENSE SEVERITY RANKING CHART

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25 Florida	Felony	
26 Statute	Degree	Description
		(a) LEVEL 1
29 24.118(3)(a)	3rd	Counterfeit or altered state 30 lottery ticket.

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1	212.054(2)(b)	3rd	Discretionary sales surtax;
2			limitations, administration, and
3			collection.
4	212.15(2)(b)	3rd	Failure to remit sales taxes,
5			amount greater than \$300 but less
6			than \$20,000.
7	319.30(5)	3rd	Sell, exchange, give away
8			certificate of title or
9			identification number plate.
10	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
11			odometer.
12	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
13			registration license plates or
14			validation stickers.
15	322.212		
16	(1)(a)-(c)	<u>2nd</u> 3rd	Possession of forged, stolen,
17			counterfeit, or unlawfully issued
18			driver's license; possession of
19			simulated identification.
20	322.212(4)	<u>2nd</u> 3rd	Supply or aid in supplying
21			unauthorized driver's license or
22			identification card.
23	322.212(5)(a)	<u>2nd</u> 3rd	False application for driver's
24			license or identification card.
25	370.13(2)(c)1.	3rd	Molest any stone crab trap, line,
26			or buoy which is property of
27			licenseholder.
28	370.135(1)	3rd	Molest any blue crab trap, line,
29			or buoy which is property of
30			licenseholder.
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1	372.663(1)	3rd	Poach any alligator or
2			crocodilia.
3	414.39(2)	3rd	Unauthorized use, possession,
4			forgery, or alteration of food
5			stamps, Medicaid ID, value
6			greater than \$200.
7	414.39(3)(a)	3rd	Fraudulent misappropriation of
8			public assistance funds by
9			employee/official, value more
10			than \$200.
11	443.071(1)	3rd	False statement or representation
12			to obtain or increase
13			unemployment compensation
14			benefits.
15	509.151(1)	3rd	Defraud an innkeeper, food or
16			lodging value greater than \$300.
17	517.302(1)	3rd	Violation of the Florida
18			Securities and Investor
19			Protection Act.
20	562.27(1)	3rd	Possess still or still apparatus.
21	713.69	3rd	Tenant removes property upon
22			which lien has accrued, value
23			more than \$50.
24	812.014(3)(c)	3rd	Petit theft (3rd conviction);
25			theft of any property not
26			specified in subsection (2).
27	812.081(2)	3rd	Unlawfully makes or causes to be
28			made a reproduction of a trade
29			secret.
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1	815.04(4)(a)	3rd	Offense against intellectual
2			property (i.e., computer
3			programs, data).
4	817.52(2)	3rd	Hiring with intent to defraud,
5			motor vehicle services.
6	817.569(2)	3rd	Use of public record or public
7			records information to facilitate
8			commission of a felony.
9	826.01	3rd	Bigamy.
10	828.122(3)	3rd	Fighting or baiting animals.
11	831.04(1)	3rd	Any erasure, alteration, etc., of
12			any replacement deed, map, plat,
13			or other document listed in s.
14			92.28.
15	831.31(1)(a)	3rd	Sell, deliver, or possess
16			counterfeit controlled
17			substances, all but s. 893.03(5)
18			drugs.
19	832.041(1)	3rd	Stopping payment with intent to
20			defraud \$150 or more.
21	832.05		
22	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
23			worthless checks \$150 or more or
24			obtaining property in return for
25			worthless check \$150 or more.
26	838.15(2)	3rd	Commercial bribe receiving.
27	838.16	3rd	Commercial bribery.
28	843.18	3rd	Fleeing by boat to elude a law
29			enforcement officer.
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1	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
2			lewd, etc., material (2nd
3			conviction).
4	849.01	3rd	Keeping gambling house.
5	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
6			or assist therein, conduct or
7			advertise drawing for prizes, or
8			dispose of property or money by
9			means of lottery.
10	849.23	3rd	Gambling-related machines;
11			"common offender" as to property
12			rights.
13	849.25(2)	3rd	Engaging in bookmaking.
14	860.08	3rd	Interfere with a railroad signal.
15	860.13(1)(a)	3rd	Operate aircraft while under the
16			influence.
17	893.13(2)(a)2.	3rd	Purchase of cannabis.
18	893.13(6)(a)	3rd	Possession of cannabis (more than
19			20 grams).
20	934.03(1)(a)	3rd	Intercepts, or procures any other
21			person to intercept, any wire or
22			oral communication.
23			(d) LEVEL 4
24	316.1935(3)	2nd	Driving at high speed or with
25			wanton disregard for safety while
26			fleeing or attempting to elude
27			law enforcement officer who is in
28			a marked patrol vehicle with
29			siren and lights activated.
30	499.0051(1)	3rd	Failure to maintain or deliver
31			pedigree papers.

1	499.0051(2)	3rd	Failure to authenticate pedigree
2			papers.
3	499.0051(6)	2nd	Sale or delivery, or possession
4			with intent to sell, contraband
5			legend drugs.
6	784.07(2)(b)	3rd	Battery of law enforcement
7			officer, firefighter, intake
8			officer, etc.
9	784.074(1)(c)	3rd	Battery of sexually violent
10			predators facility staff.
11	784.075	3rd	Battery on detention or
12			commitment facility staff.
13	784.078	3rd	Battery of facility employee by
14			throwing, tossing, or expelling
15			certain fluids or materials.
16	784.08(2)(c)	3rd	Battery on a person 65 years of
17			age or older.
18	784.081(3)	3rd	Battery on specified official or
19			employee.
20	784.082(3)	3rd	Battery by detained person on
21			visitor or other detainee.
22	784.083(3)	3rd	Battery on code inspector.
23	784.085	3rd	Battery of child by throwing,
24			tossing, projecting, or expelling
25			certain fluids or materials.
26	787.03(1)	3rd	Interference with custody;
27			wrongly takes child from
28			appointed guardian.
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1	787.04(2)	3rd	Take, entice, or remove child
2			beyond state limits with criminal
3			intent pending custody
4			proceedings.
5	787.04(3)	3rd	Carrying child beyond state lines
6			with criminal intent to avoid
7			producing child at custody
8			hearing or delivering to
9			designated person.
10	790.115(1)	3rd	Exhibiting firearm or weapon
11			within 1,000 feet of a school.
12	790.115(2)(b)	3rd	Possessing electric weapon or
13			device, destructive device, or
14			other weapon on school property.
15	790.115(2)(c)	3rd	Possessing firearm on school
16			property.
17	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
18			offender less than 18 years.
19	810.02(4)(a)	3rd	Burglary, or attempted burglary,
20			of an unoccupied structure;
21			unarmed; no assault or battery.
22	810.02(4)(b)	3rd	Burglary, or attempted burglary,
23			of an unoccupied conveyance;
24			unarmed; no assault or battery.
25	810.06	3rd	Burglary; possession of tools.
26	810.08(2)(c)	3rd	Trespass on property, armed with
27			firearm or dangerous weapon.
28	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
29			or more but less than \$20,000.
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1	812.014		
2	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
3			firearm, motor vehicle,
4			livestock, etc.
5	812.0195(2)	3rd	Dealing in stolen property by use
6			of the Internet; property stolen
7			\$300 or more.
8	817.563(1)	3rd	Sell or deliver substance other
9			than controlled substance agreed
10			upon, excluding s. 893.03(5)
11			drugs.
12	817.568(2)(a)	<u>2nd</u> 3rd	Fraudulent use of personal
13			identification information.
14	817.625(2)(a)	3rd	Fraudulent use of scanning device
15			or reencoder.
16	828.125(1)	2nd	Kill, maim, or cause great bodily
17			harm or permanent breeding
18			disability to any registered
19			horse or cattle.
20	837.02(1)	3rd	Perjury in official proceedings.
21	837.021(1)	3rd	Make contradictory statements in
22			official proceedings.
23	838.022	3rd	Official misconduct.
24	839.13(2)(a)	3rd	Falsifying records of an
25			individual in the care and
26			custody of a state agency.
27	839.13(2)(c)	3rd	Falsifying records of the
28			Department of Children and Family
29			Services.
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1	843.021	3rd	Possession of a concealed
2			handcuff key by a person in
3			custody.
4	843.025	3rd	Deprive law enforcement,
5			correctional, or correctional
6			probation officer of means of
7			protection or communication.
8	843.15(1)(a)	3rd	Failure to appear while on bail
9			for felony (bond estreature or
10			bond jumping).
11	874.05(1)	3rd	Encouraging or recruiting another
12			to join a criminal street gang.
13	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
14			893.03(1)(a), (b), or (d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs).
17	914.14(2)	3rd	Witnesses accepting bribes.
18	914.22(1)	3rd	Force, threaten, etc., witness,
19			victim, or informant.
20	914.23(2)	3rd	Retaliation against a witness,
21			victim, or informant, no bodily
22			injury.
23	918.12	3rd	Tampering with jurors.
24	934.215	3rd	Use of two-way communications
25			device to facilitate commission
26			of a crime.
27	Section 5. Section 775.0844, Florida Statutes, is		
28	amended to read:		
29	775.0844 White Collar Crime Victim Protection Act.--		
30	(1) This section may be cited as the "White Collar		
31	Crime Victim Protection Act."		

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

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

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

14 1. Chapter 560, relating to the Money Transmitters'
15 Code.

16 2. Chapter 812, relating to theft, robbery, and
17 related crimes.

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

19 4. Chapter 817, relating to fraudulent practices.

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

22 6. Chapter 831, relating to forgery and
23 counterfeiting.

24 7. Chapter 832, relating to the issuance of worthless
25 checks and drafts.

26 8. Chapter 838, relating to bribery and misuse of
27 public office.

28 9. Chapter 839, relating to offenses by public
29 officers and employees.

30 10. Chapter 895, relating to offenses concerning
31 racketeering and illegal debts.

1 11. Chapter 896, relating to offenses related to
2 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) As used in this section, "aggravated white collar
13 crime" means:

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

20 (b) Engaging in at least one white collar crime that
21 is a felony offense that involves fraud concerning Medicaid,
22 insurance, or securities.

23 (5) Except as provided in subsection (6), any person
24 who commits an aggravated white collar crime as defined in
25 this section and in so doing either:

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

28 (b) Victimizes 20 or more persons, as defined in s.
29 1.01; or
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1 (c) Victimizes the State of Florida, any state agency,
2 any of the state's political subdivisions, or any agency of
3 the state's political subdivisions,

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

8 (6) A person who commits an aggravated white collar
9 crime as defined in paragraph (4)(b), and in doing so
10 victimizes 20 or more persons, commits a felony of the first
11 degree, punishable as provided in s. 775.082, s. 775.083, or
12 s. 775.084. Any person convicted of an aggravated white collar
13 crime under this subsection shall be sentenced to a minimum
14 mandatory period of incarceration of 10 years.

15 (7)~~(6)~~ Notwithstanding any other provision of chapter
16 921 or any other law, an aggravated white collar crime shall
17 be ranked within the offense severity ranking chart at offense
18 severity level 9.

19 (8)~~(7)~~ In addition to a sentence otherwise authorized
20 by law, a person convicted of an aggravated white collar crime
21 may pay a fine of \$500,000 or double the value of the
22 pecuniary gain or loss, whichever is greater.

23 (9)~~(8)~~ A person convicted of an aggravated white
24 collar crime under this section is liable for all court costs
25 and shall pay restitution to each victim of the crime,
26 regardless of whether the victim is named in the information
27 or indictment. As used in this subsection, "victim" means a
28 person directly and proximately harmed as a result of the
29 commission of the offense for which restitution may be
30 ordered, including any person directly harmed by the
31 defendant's criminal conduct in the course of the commission

1 of the aggravated white collar crime. The court shall hold a
2 hearing to determine the identity of qualifying victims and
3 shall order the defendant to pay restitution based on his or
4 her ability to pay, in accordance with this section and s.
5 775.089.

6 (a) The court shall make the payment of restitution a
7 condition of any probation granted to the defendant by the
8 court. Notwithstanding any other law, the court may order
9 continued probation for a defendant convicted under this
10 section for up to 10 years or until full restitution is made
11 to the victim, whichever occurs earlier.

12 (b) The court retains jurisdiction to enforce its
13 order to pay fines or restitution. The court may initiate
14 proceedings against a defendant for a violation of probation
15 or for contempt of court if the defendant willfully fails to
16 comply with a lawful order of the court.

17 Section 6. This act shall take effect July 1, 2004.

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SENATE SUMMARY

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Increases criminal penalties for certain persons for prohibited acts relating to identification cards, drivers' licenses, and personal identification information. Expands the definition of aggravated white collar crime relating to fraudulent behavior involving Medicaid, insurance, or securities. Creates a minimum mandatory term of imprisonment.