

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1675 CS Fraud
SPONSOR(S): Flores and others
TIED BILLS: IDEN./SIM. BILLS: SB 2332

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Criminal Justice Committee, 5 Y, 0 N, w/CS, Kramer, Kramer. Row 2: 2) Justice Appropriations Committee, 9 Y, 0 N, Sneed, DeBeaugrine. Rows 3-5 are empty.

SUMMARY ANALYSIS

HB 1675 with committee substitute amends the White Collar Crime Prevention Act to include Medicaid provider fraud. The bill also includes an alternative definition of aggravated white collar crime as engaging in at least one white collar crime that is a felony offense involving Medicaid provider fraud. The bill makes a person who commits this crime and victimizes 20 or more persons, a state agency, or a political subdivision, a first degree felony. The offense is punishable by up to 30 years in prison and the judge is required to impose a 10 year minimum mandatory sentence.

The Criminal Justice Estimating Conference has not yet met to make a determination regarding the fiscal impact of this bill. However, staff in the legislative division of the Office of Economic and Demographic Research has determined that this bill would likely have an insignificant prison bed impact on the Department of Corrections.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: The bill requires the imposition of a 10 year minimum mandatory sentence for the offense of aggravated white collar crime involving Medicaid fraud.

B. EFFECT OF PROPOSED CHANGES:

Background

White Collar Crime Protection Act: Section 775.0844, F.S. defines the term “white collar crime” to mean the commission of any felony offense contained in specified chapters of statute¹. The section defines the term “aggravated white collar crime” as engaging in at least two white collar crimes that have the same or similar intents, results, accomplices, victims or methods of commission, or that are otherwise interrelated by distinguishing characteristics and are not isolated incidents. The section provides that a person who commits an aggravated white collar crime and victimizes either 10 or more elderly persons or disabled adults, twenty or more persons, or any agency or subdivision of the State of Florida, and obtains or attempts to obtain \$50,000 or more, commits a first degree felony.

Effect of Proposed Changes

HB 1675 adds section 409.920, relating to **Medicaid provider fraud**, to the list of enumerated offenses contained within the definition of “white collar crime”. The bill also provides that a person who commits an aggravated white collar crime in which at least one of the white collar crimes committed is a violation of s. 409.920, relating to Medicaid provider fraud or is a white collar crime in which intent to defraud is an element and which, alone or in combination with another violation of s. 409.20 or a white collar crime in which intent to defraud is an element either victimizes 20 or more persons or victimizes the State of Florida, any state agency, any of the state’s political subdivisions, or any agency of the state’s political subdivisions commits a first degree felony. The offense is punishable by up to 30 years in prison and requires the imposition of a 10 year minimum mandatory sentence.

C. SECTION DIRECTORY:

Section 1. Amends s. 775.0844, F.S. relating to the White Collar Crime Protection Act to amend definition to include Medicaid provider fraud.

Section 2. Amends s. 921.0022, F.S. to make corresponding changes to offense severity ranking chart of Criminal Punishment Code.

Section 3. Provides effective date of July 1, 2005.

¹ Included in the list are the following chapters: chapter 560 (relating to the Money Transmitters' Code), chapter 812 (relating to theft, robbery, and related crimes), chapter 815 (relating to computer-related crimes), chapter 817 (relating to fraudulent practices), chapter 825 (relating to abuse, neglect, and exploitation of elderly persons and disabled adults), chapter 831 (relating to forgery and counterfeiting), chapter 832 (relating to the issuance of worthless checks and drafts), chapter 838 (relating to bribery and misuse of public office), chapter 839 (relating to offenses by public officers and employees), chapter 895 (relating to offenses concerning racketeering and illegal debts) or chapter 896 (relating to offenses related to financial transactions). The definition also includes: a felony offense that is committed with intent to defraud or that involves a conspiracy to defraud; a felony offense that is committed with intent to temporarily or permanently deprive a person of his or her property or that involves a conspiracy to temporarily or permanently deprive a person of his or her property; or a felony offense that involves or results in the commission of fraud or deceit upon a person or that involves a conspiracy to defraud or deceit upon a person.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Estimating Conference has not yet met to make a determination regarding the fiscal impact of this bill. However, staff in the legislative division of the Office of Economic and Demographic Research has determined that this bill would likely have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

As originally filed, this bill contained provisions relating to price gouging during a declared state of emergency. The Criminal Justice Committee adopted an amendment to remove these provisions.