

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to fraud; amending s. 775.0844, F.S.;  
7 redefining the term "white collar crime" to include  
8 Medicaid provider fraud; providing a minimum mandatory  
9 term of imprisonment for committing an aggravated white  
10 collar crime involving Medicaid provider fraud; amending  
11 s. 921.0022, F.S., relating to the Criminal Punishment  
12 Code; conforming provisions to changes made by the act;  
13 providing applicability; providing an effective 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

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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) Victimized 10 or more elderly persons, as defined in  
72 | s. 825.101~~(5)~~;

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

75 |        (c) Victimized 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,  
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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 intent to defraud is an element and  
86 | which, alone or in combination with another violation of s.  
87 | 409.920 or a white collar crime in which intent to defraud is an  
88 | element, either:

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 the person shall be  
97 | sentenced to a minimum mandatory term of imprisonment 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 is  
105 | subject to ~~may pay~~ a fine of \$500,000 or double the value of the  
106 | pecuniary gain or loss, whichever is greater.

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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.--

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135	(3) OFFENSE SEVERITY RANKING CHART		
136	Florida Statute	Felony Degree	Description
137			(i) LEVEL 9
138	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
139	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
140	499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
141	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
142	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment

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			instruments totaling or exceeding \$100,000.
143	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
144	775.0844 <u>(5) &amp; (6)</u>	1st	Aggravated white collar crime.
145	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
146	782.04(3)	1st,PBL	robbery, burglary, and other specified felonies.
147	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
148	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
149	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for

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			ransom or reward or as a shield or hostage.
150	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
151	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
152	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.
153	790.161	1st	Attempted capital destructive device offense.
154	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.



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155	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
156	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
157	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
158	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
159	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
160	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
161	812.133(2)(a)	1st,PBL	Carjacking; firearm or

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			other deadly weapon.
162	812.135(2)(b)	1st	Home-invasion robbery with weapon.
163	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.
164	827.03(2)	1st	Aggravated child abuse.
165	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
166	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
167	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill

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			or injure another person.
168	893.135	1st	Attempted capital trafficking offense.
169	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
170	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
171	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
172	893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
173	893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
174	893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
175	893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB),

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176	893.135 (1)(j)1.c.	1st	10 kilograms or more.  Trafficking in 1,4- Butanediol, 10 kilograms or more.
177	893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
178	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
179	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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181       Section 3. This act shall take effect July 1, 2005, and  
182 shall apply to offenses committed on or after that date.