

By Senator Bennett

21-989A-05

1 A bill to be entitled
2 An act relating to fraud; amending s. 775.0844,
3 F.S.; redefining "white collar crime" to
4 include Medicaid provider fraud; providing a
5 minimum mandatory term of imprisonment for
6 committing an aggravated white collar crime
7 involving Medicaid provider fraud; amending s.
8 921.0022, F.S., relating to the Criminal
9 Punishment Code; conforming provisions to
10 changes made by the act; creating s. 501.161,
11 F.S.; prohibiting the sale or rental of, or the
12 offer to sell or rent, essential equipment,
13 commodities, or accommodation, as defined,
14 during a declared state of emergency for 110
15 percent or more of its average price for the 30
16 days immediately preceding the declaration of
17 emergency; providing an exception; providing
18 penalties; providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:
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22 Section 1. Section 775.0844, Florida Statutes, is
23 amended to read:

24 775.0844 White Collar Crime Victim Protection Act.--

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

27 (2) Due to the frequency with which victims,
28 particularly elderly victims, are deceived and cheated by
29 criminals who commit nonviolent frauds and swindles,
30 frequently through the use of the Internet and other
31 electronic technology and frequently causing the loss of

1 substantial amounts of property, it is the intent of the
2 Legislature to enhance the sanctions imposed for nonviolent
3 frauds and swindles, protect the public's property, and assist
4 in prosecuting white collar criminals.

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

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

9 1. Section 409.920, relating to Medicaid provider
10 fraud.

11 ~~2.1.~~ Chapter 560, relating to the Money Transmitters'
12 Code.

13 ~~3.2.~~ Chapter 812, relating to theft, robbery, and
14 related crimes.

15 ~~4.3.~~ Chapter 815, relating to computer-related crimes.

16 ~~5.4.~~ Chapter 817, relating to fraudulent practices.

17 ~~6.5.~~ Chapter 825, relating to abuse, neglect, and
18 exploitation of elderly persons and disabled adults.

19 ~~7.6.~~ Chapter 831, relating to forgery and
20 counterfeiting.

21 ~~8.7.~~ Chapter 832, relating to the issuance of
22 worthless checks and drafts.

23 ~~9.8.~~ Chapter 838, relating to bribery and misuse of
24 public office.

25 ~~10.9.~~ Chapter 839, relating to offenses by public
26 officers and employees.

27 ~~11.10.~~ Chapter 895, relating to offenses concerning
28 racketeering and illegal debts.

29 ~~12.11.~~ Chapter 896, relating to offenses related to
30 financial transactions.

31

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

3 (c) A felony offense that is committed with intent to
4 temporarily or permanently deprive a person of his or her
5 property or that involves a conspiracy to temporarily or
6 permanently deprive a person of his or her property.

7 (d) A felony offense that involves or results in the
8 commission of fraud or deceit upon a person or that involves a
9 conspiracy to commit fraud or deceit upon a person.

10 (4) As used in this section, "aggravated white collar
11 crime" means engaging in at least two white collar crimes that
12 have the same or similar intents, results, accomplices,
13 victims, or methods of commission, or that are otherwise
14 interrelated by distinguishing characteristics and are not
15 isolated incidents, provided that at least one of ~~the~~ such
16 crimes occurred after the effective date of this act.

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

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

21 (b) Victimizes 20 or more persons, as defined in s.
22 1.01; or

23 (c) Victimizes the State of Florida, any state agency,
24 any of the state's political subdivisions, or any agency of
25 the state's political subdivisions,

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

30 (6) A person who commits an aggravated white collar
31 crime as defined in this section in which at least one of the

1 white collar crimes committed is a violation of s. 409.920 or
2 is a white collar crime in which intent to defraud is an
3 element, and which, alone or in combination with another
4 violation of s. 409.920 or a white collar crime in which
5 intent to defraud is an element, either:

6 (a) Victimizes 20 or more persons, as defined in s.
7 1.01; or

8 (b) Victimizes the State of Florida, any state agency,
9 any of the state's political subdivisions, or any agency of
10 the state's political subdivisions,

11
12 commits a felony of the first degree, punishable as provided
13 in s. 775.082, s. 775.083, or s. 775.084, and such person
14 shall be sentenced to a minimum mandatory term of imprisonment
15 of 10 years.

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

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

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

1 defendant's criminal conduct in the course of the commission
2 of the aggravated white collar crime. The court shall hold a
3 hearing to determine the identity of qualifying victims and
4 shall order the defendant to pay restitution based on his or
5 her ability to pay, in accordance with this section and s.
6 775.089.

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

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

18 Section 2. Paragraph (i) of subsection (3) of section
19 921.0022, Florida Statutes, is amended to read:

20 921.0022 Criminal Punishment Code; offense severity
21 ranking chart.--

22 (3) OFFENSE SEVERITY RANKING CHART

23
24 Florida Felony
25 Statute Degree Description

26
27
28 (i) LEVEL 9

29 316.193

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

1	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
2			render aid or give information.
3	499.0053	1st	Sale or purchase of contraband
4			legend drugs resulting in great
5			bodily harm.
6	560.123(8)(b)3.	1st	Failure to report currency or
7			payment instruments totaling or
8			exceeding \$100,000 by money
9			transmitter.
10	560.125(5)(c)	1st	Money transmitter business by
11			unauthorized person, currency, or
12			payment instruments totaling or
13			exceeding \$100,000.
14	655.50(10)(b)3.	1st	Failure to report financial
15			transactions totaling or
16			exceeding \$100,000 by financial
17			institution.
18	775.0844(5)&(6)	1st	Aggravated white collar crime.
19	782.04(1)	1st	Attempt, conspire, or solicit to
20			commit premeditated murder.
21	782.04(3)	1st,PBL	Accomplice to murder in
22			connection with arson, sexual
23			battery, robbery, burglary, and
24			other specified felonies.
25	782.051(1)	1st	Attempted felony murder while
26			perpetrating or attempting to
27			perpetrate a felony enumerated in
28			s. 782.04(3).
29	782.07(2)	1st	Aggravated manslaughter of an
30			elderly person or disabled adult.
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1	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
2			reward or as a shield or hostage.
3	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
4			or facilitate commission of any
5			felony.
6	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
7			interfere with performance of any
8			governmental or political
9			function.
10	787.02(3)(a)	1st	False imprisonment; child under
11			age 13; perpetrator also commits
12			aggravated child abuse, sexual
13			battery, or lewd or lascivious
14			battery, molestation, conduct, or
15			exhibition.
16	790.161	1st	Attempted capital destructive
17			device offense.
18	790.166(2)	1st,PBL	Possessing, selling, using, or
19			attempting to use a weapon of
20			mass destruction.
21	794.011(2)	1st	Attempted sexual battery; victim
22			less than 12 years of age.
23	794.011(2)	Life	Sexual battery; offender younger
24			than 18 years and commits sexual
25			battery on a person less than 12
26			years.
27	794.011(4)	1st	Sexual battery; victim 12 years
28			or older, certain circumstances.
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1	794.011(8)(b)	1st	Sexual battery; engage in sexual
2			conduct with minor 12 to 18 years
3			by person in familial or
4			custodial authority.
5	800.04(5)(b)	1st	Lewd or lascivious molestation;
6			victim less than 12 years;
7			offender 18 years or older.
8	812.13(2)(a)	1st,PBL	Robbery with firearm or other
9			deadly weapon.
10	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
11			deadly weapon.
12	812.135(2)(b)	1st	Home-invasion robbery with
13			weapon.
14	817.568(7)	2nd,PBL	Fraudulent use of personal
15			identification information of an
16			individual under the age of 18 by
17			his or her parent, legal
18			guardian, or person exercising
19			custodial authority.
20	827.03(2)	1st	Aggravated child abuse.
21	847.0145(1)	1st	Selling, or otherwise
22			transferring custody or control,
23			of a minor.
24	847.0145(2)	1st	Purchasing, or otherwise
25			obtaining custody or control, of
26			a minor.
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1	859.01	1st	Poisoning or introducing
2			bacteria, radioactive materials,
3			viruses, or chemical compounds
4			into food, drink, medicine, or
5			water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28	893.135		
29	(1)(h)1.c.	1st	Trafficking in
30			gamma-hydroxybutyric acid (GHB),
31			10 kilograms or more.

- 1 893.135
2 (1)(j)1.c. 1st Trafficking in 1,4-Butanediol, 10
3 kilograms or more.
4 893.135
5 (1)(k)2.c. 1st Trafficking in Phenethylamines,
6 400 grams or more.
7 896.101(5)(c) 1st Money laundering, financial
8 instruments totaling or exceeding
9 \$100,000.
10 896.104(4)(a)3. 1st Structuring transactions to evade
11 reporting or registration
12 requirements, financial
13 transactions totaling or
14 exceeding \$100,000.

15 Section 3. Section 501.161, Florida Statutes, is
16 created to read:

17 501.161 Price gouging during state of emergency;
18 penalties.--

19 (1) As used in this section, the term:

20 (a) "Essential equipment, commodities, or
21 accommodation" means any goods, services, materials,
22 merchandise, supplies, equipment, resources, or other article
23 of commerce and includes, without limitation, food, water,
24 ice, chemicals, petroleum products, and lumber necessary for
25 consumption or use as a direct result of an emergency. The
26 term also includes any temporary accommodation, such as a
27 hotel, motel, other transient lodging facility, or other
28 residential accommodation, sought by persons seeking shelter
29 during the emergency.

30 (b) "Price gouging" means knowingly renting or
31 selling, or attempting or offering to rent or sell, essential

1 equipment, commodities, or accommodation during a state of
2 emergency declared by the Governor for an unconscionable price
3 that is 110 percent or more of the average price charged for
4 such essential equipment, commodities, or accommodation for
5 the 30 days immediately preceding the declaration of a state
6 of emergency, unless the increase is caused by actual costs
7 incurred in connection with such essential equipment,
8 commodities, or accommodation.

9 (2) It is unlawful for any person to engage in price
10 gouging in this state.

11 (a) Price gouging constitutes a misdemeanor of the
12 second degree, punishable as provided in s. 775.082 or s.
13 775.083, if the offender receives less than \$300, or receives
14 no consideration of any kind, for the essential equipment,
15 commodities, or accommodation.

16 (b) Price gouging constitutes a misdemeanor of the
17 first degree, punishable as provided in s. 775.082 or s.
18 775.083, if the offender receives \$300 or more for the
19 essential equipment, commodities, or accommodation.

20 Section 4. This act shall take effect July 1, 2005.

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23 SENATE SUMMARY

24 Defines the term "white collar crime" to include Medicaid
25 provider fraud. Provides a minimum mandatory term of
26 imprisonment for committing an aggravated white collar
27 crime involving Medicaid provider fraud. Declares it a
28 second-degree misdemeanor for a person to sell or rent,
29 or offer to sell or rent, "essential equipment,
30 commodities, or accommodation," as defined, during a
31 declared state of emergency for a price that is 110
percent or more of the average price for that equipment,
commodity, or accommodation during the 30 days preceding
the declaration of emergency, an offense entitled "price
gouging." When such person receives \$300 or more as a
result, the offense becomes a first-degree misdemeanor.
(See bill for details.)