

By Senator Bennett

21-436-06

1                                   A bill to be entitled

2           An act relating to fraud; amending s. 775.0844,

3           F.S.; redefining the term "white collar crime"

4           to 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 or

8           victimization of the state or agency thereof;

9           amending s. 921.0022, F.S., relating to the

10          Criminal Punishment Code; conforming provisions

11          to changes made by the act; providing an

12          effective date.

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

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

18           775.0844 White Collar Crime Victim Protection Act.--

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

21           (2) Due to the frequency with which victims,  
22 particularly elderly victims, are deceived and cheated by  
23 criminals who commit nonviolent frauds and swindles,  
24 frequently through the use of the Internet and other  
25 electronic technology and frequently causing the loss of  
26 substantial amounts of property, it is the intent of the  
27 Legislature to enhance the sanctions imposed for nonviolent  
28 frauds and swindles, protect the public's property, and assist  
29 in prosecuting white collar criminals.

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

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

3 1. Section 409.920, relating to Medicaid provider  
4 fraud.

5 ~~2.1.~~ Chapter 560, relating to the Money Transmitters'  
6 Code.

7 ~~3.2.~~ Chapter 812, relating to theft, robbery, and  
8 related crimes.

9 ~~4.3.~~ Chapter 815, relating to computer-related crimes.

10 ~~5.4.~~ Chapter 817, relating to fraudulent practices.

11 ~~6.5.~~ Chapter 825, relating to abuse, neglect, and  
12 exploitation of elderly persons and disabled adults.

13 ~~7.6.~~ Chapter 831, relating to forgery and  
14 counterfeiting.

15 ~~8.7.~~ Chapter 832, relating to the issuance of  
16 worthless checks and drafts.

17 ~~9.8.~~ Chapter 838, relating to bribery and misuse of  
18 public office.

19 ~~10.9.~~ Chapter 839, relating to offenses by public  
20 officers and employees.

21 ~~11.10.~~ Chapter 895, relating to offenses concerning  
22 racketeering and illegal debts.

23 ~~12.11.~~ Chapter 896, relating to offenses related to  
24 financial transactions.

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

27 (c) A felony offense that is committed with intent to  
28 temporarily or permanently deprive a person of his or her  
29 property or that involves a conspiracy to temporarily or  
30 permanently deprive a person of his or her property.

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1 (d) A felony offense that involves or results in the  
2 commission of fraud or deceit upon a person or that involves a  
3 conspiracy to commit fraud or deceit upon a person.

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

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

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

15 (b) Victimizes 20 or more persons, as defined in s.  
16 1.01; or

17 (c) Victimizes the State of Florida, any state agency,  
18 any of the state's political subdivisions, or any agency of  
19 the state's political subdivisions,

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

24 (6) A person who commits an aggravated white collar  
25 crime as defined in this section in which at least one of the  
26 white collar crimes committed is a violation of s. 409.920 or  
27 is a white collar crime in which the intent to defraud is an  
28 element, and which, alone or in combination with another  
29 violation of s. 409.920 or a white collar crime in which the  
30 intent to defraud is an element, either:

1           (a) Victimized 20 or more persons, as defined in s.  
2 1.01; or  
3           (b) Victimized the State of Florida, any state agency,  
4 any of the state's political subdivisions, or any agency of  
5 the state's political subdivisions,  
6  
7 commits a felony of the first degree, punishable as provided  
8 in s. 775.082, s. 775.083, or s. 775.084, and the person shall  
9 be sentenced to a minimum mandatory term of imprisonment of 10  
10 years.  
11           ~~(7)(6)~~ Notwithstanding any other provision of chapter  
12 921 or any other law, an aggravated white collar crime shall  
13 be ranked within the offense severity ranking chart at offense  
14 severity level 9.  
15           ~~(8)(7)~~ In addition to a sentence otherwise authorized  
16 by law, a person convicted of an aggravated white collar crime  
17 is subject to ~~may pay~~ a fine of \$500,000 or double the value  
18 of the pecuniary gain or loss, whichever is greater.  
19           ~~(9)(8)~~ A person convicted of an aggravated white  
20 collar crime under this section is liable for all court costs  
21 and shall pay restitution to each victim of the crime,  
22 regardless of whether the victim is named in the information  
23 or indictment. As used in this subsection, "victim" means a  
24 person directly and proximately harmed as a result of the  
25 commission of the offense for which restitution may be  
26 ordered, including any person directly harmed by the  
27 defendant's criminal conduct in the course of the commission  
28 of the aggravated white collar crime. The court shall hold a  
29 hearing to determine the identity of qualifying victims and  
30 shall order the defendant to pay restitution based on his or  
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1 her ability to pay, in accordance with this section and s.  
2 775.089.

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

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

14 Section 2. Paragraph (i) of subsection (3) of section  
15 921.0022, Florida Statutes, is amended to read:

16 921.0022 Criminal Punishment Code; offense severity  
17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

19

20 Florida	Felony	
21 Statute	Degree	Description
		(i) LEVEL 9
25 316.193		
26 (3)(c)3.b.	1st	DUI manslaughter; failing to 27 render aid or give information.
28 327.35(3)(c)3.b.	1st	BUI manslaughter; failing to 29 render aid or give information.

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1	499.00535	1st	Sale or purchase of contraband
2			legend drugs resulting in great
3			bodily harm.
4	560.123(8)(b)3.	1st	Failure to report currency or
5			payment instruments totaling or
6			exceeding \$100,000 by money
7			transmitter.
8	560.125(5)(c)	1st	Money transmitter business by
9			unauthorized person, currency, or
10			payment instruments totaling or
11			exceeding \$100,000.
12	655.50(10)(b)3.	1st	Failure to report financial
13			transactions totaling or
14			exceeding \$100,000 by financial
15			institution.
16	775.0844(5)&(6)	1st	Aggravated white collar crime.
17	782.04(1)	1st	Attempt, conspire, or solicit to
18			commit premeditated murder.
19	782.04(3)	1st,PBL	Accomplice to murder in
20			connection with arson, sexual
21			battery, robbery, burglary, and
22			other specified felonies.
23	782.051(1)	1st	Attempted felony murder while
24			perpetrating or attempting to
25			perpetrate a felony enumerated in
26			s. 782.04(3).
27	782.07(2)	1st	Aggravated manslaughter of an
28			elderly person or disabled adult.
29	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
30			reward or as a shield or hostage.
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1	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
2			or facilitate commission of any
3			felony.
4	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
5			interfere with performance of any
6			governmental or political
7			function.
8	787.02(3)(a)	1st	False imprisonment; child under
9			age 13; perpetrator also commits
10			aggravated child abuse, sexual
11			battery, or lewd or lascivious
12			battery, molestation, conduct, or
13			exhibition.
14	790.161	1st	Attempted capital destructive
15			device offense.
16	790.166(2)	1st,PBL	Possessing, selling, using, or
17			attempting to use a weapon of
18			mass destruction.
19	794.011(2)	1st	Attempted sexual battery; victim
20			less than 12 years of age.
21	794.011(2)	Life	Sexual battery; offender younger
22			than 18 years and commits sexual
23			battery on a person less than 12
24			years.
25	794.011(4)	1st	Sexual battery; victim 12 years
26			or older, certain circumstances.
27	794.011(8)(b)	1st	Sexual battery; engage in sexual
28			conduct with minor 12 to 18 years
29			by person in familial or
30			custodial authority.
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1	800.04(5)(b)	Life	Lewd or lascivious molestation;
2			victim less than 12 years;
3			offender 18 years or older.
4	812.13(2)(a)	1st,PBL	Robbery with firearm or other
5			deadly weapon.
6	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
7			deadly weapon.
8	812.135(2)(b)	1st	Home-invasion robbery with
9			weapon.
10	817.568(7)	2nd,PBL	Fraudulent use of personal
11			identification information of an
12			individual under the age of 18 by
13			his or her parent, legal
14			guardian, or person exercising
15			custodial authority.
16	827.03(2)	1st	Aggravated child abuse.
17	847.0145(1)	1st	Selling, or otherwise
18			transferring custody or control,
19			of a minor.
20	847.0145(2)	1st	Purchasing, or otherwise
21			obtaining custody or control, of
22			a minor.
23	859.01	1st	Poisoning or introducing
24			bacteria, radioactive materials,
25			viruses, or chemical compounds
26			into food, drink, medicine, or
27			water with intent to kill or
28			injure another person.
29	893.135	1st	Attempted capital trafficking
30			offense.
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1	893.135(1)(a)3.	1st	Trafficking in cannabis, more
2			than 10,000 lbs.
3	893.135		
4	(1)(b)1.c.	1st	Trafficking in cocaine, more than
5			400 grams, less than 150
6			kilograms.
7	893.135		
8	(1)(c)1.c.	1st	Trafficking in illegal drugs,
9			more than 28 grams, less than 30
10			kilograms.
11	893.135		
12	(1)(d)1.c.	1st	Trafficking in phencyclidine,
13			more than 400 grams.
14	893.135		
15	(1)(e)1.c.	1st	Trafficking in methaqualone, more
16			than 25 kilograms.
17	893.135		
18	(1)(f)1.c.	1st	Trafficking in amphetamine, more
19			than 200 grams.
20	893.135		
21	(1)(h)1.c.	1st	Trafficking in
22			gamma-hydroxybutyric acid (GHB),
23			10 kilograms or more.
24	893.135		
25	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
26			kilograms or more.
27	893.135		
28	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
29			400 grams or more.
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1 896.101(5)(c) 1st Money laundering, financial  
2 instruments totaling or exceeding  
3 \$100,000.  
4 896.104(4)(a)3. 1st Structuring transactions to evade  
5 reporting or registration  
6 requirements, financial  
7 transactions totaling or  
8 exceeding \$100,000.

9 Section 3. This act shall take effect July 1, 2006.

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12 SENATE SUMMARY

13 Redefines the term "white collar crime" to include  
14 Medicaid provider fraud. Provides a minimum mandatory  
15 term of imprisonment for committing an aggravated white  
16 collar crime involving Medicaid provider fraud or  
17 victimization of the state or an agency thereof.  
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