

1 A bill to be entitled
2 An act relating to fraud; creating s. 817.011, F.S.;
3 defining the term "business entity"; amending s.
4 817.02, F.S.; providing for restitution to victims for
5 certain victim out-of-pocket costs; providing for a
6 civil cause of action for certain victims; creating s.
7 817.032, F.S.; defining the term "victim"; requiring
8 business entities to provide copies of business
9 records of fraudulent transactions involving identity
10 theft to victims and law enforcement agencies in
11 certain circumstances; providing an exception;
12 providing for verification of a victim's identity and
13 claim; providing procedures for claims; requiring that
14 certain information be provided to victims without
15 charge; specifying circumstances in which business
16 entities may decline to provide information; providing
17 a limitation on civil liability for business entities
18 that provide or decline to provide information in
19 certain circumstances; specifying that no new record
20 retention is required; providing an affirmative
21 defense to business entities in actions seeking
22 enforcement of provisions; amending s. 817.11, F.S.;
23 making editorial changes; amending and renumbering ss.
24 817.12 and 817.13, F.S.; combining offense, penalty,
25 and evidence provisions and transferring such
26 provisions to s. 817.11, F.S.; amending s. 817.14,

27 F.S.; making editorial changes; amending s. 817.15,
28 F.S.; substituting the term "business entity" for the
29 term "corporation"; amending ss. 817.17 and 817.18,
30 F.S.; including counties and other political
31 subdivisions in provisions prohibiting the false
32 marking of goods or packaging with a location of
33 origin; reorganizing penalty provisions; amending s.
34 817.19, F.S.; prohibiting fraudulent issuance of
35 indicia of membership interest in a limited liability
36 company; amending s. 817.39, F.S.; substituting the
37 term "business entity" for the term "corporation";
38 amending s. 817.40, F.S.; specifying that the term
39 "misleading advertising" includes electronic forms of
40 dissemination; amending s. 817.411, F.S.; substituting
41 the term "business entity" for the term "corporation";
42 specifying that certain false statements made through
43 electronic means are prohibited; amending s. 817.412,
44 F.S.; specifying that electronic statements are
45 included in provisions prohibiting false
46 representations of used goods as new; creating s.
47 817.414, F.S.; prohibiting the sale of counterfeit
48 security company signs or decals; providing criminal
49 penalties; amending s. 817.481, F.S.; revising a
50 catchline; making technical changes; amending s.
51 817.50, F.S.; revising criminal penalties for
52 fraudulently obtaining goods or services from a health

53 care provider; amending s. 817.568, F.S.; expanding
 54 specified identity theft offenses to include all
 55 persons rather than being limited to natural persons;
 56 including dissolved business entities within certain
 57 offenses involving fraudulent use of personal
 58 identification information of deceased persons;
 59 amending s. 817.569, F.S.; prohibiting a person from
 60 knowingly providing false information that becomes
 61 part of a public record to facilitate or further the
 62 commission of certain offenses; providing criminal
 63 penalties; amending s. 921.0022, F.S.; conforming
 64 provisions to changes made by the act; providing an
 65 effective date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Section 817.011, Florida Statutes, is created
 70 to read:

71 817.011 Definition.—As used in this chapter, the term
 72 "business entity" means any corporation, partnership, limited
 73 partnership, company, limited liability company, proprietorship,
 74 firm, enterprise, franchise, association, self-employed
 75 individual, or trust, whether fictitiously named or not, doing
 76 business in this state.

77 Section 2. Section 817.02, Florida Statutes, is amended to
 78 read:

79 | 817.02 Obtaining property by false personation.—

80 | (1) Whoever falsely personates or represents another
 81 | person, and in such assumed character:

82 | (a) Receives any property intended to be delivered to that
 83 | person ~~the party so personated,~~ with intent to convert the same
 84 | to his or her own use; or

85 | (b) To the extent not subject to s. 817.568, damages the
 86 | credit history or rating of, or otherwise causes harm to, the
 87 | person whose identity has been assumed through the taking of
 88 | property from any person,

89 | shall be punished as if he or she had been convicted of larceny.

90 | (2) (a) In sentencing a defendant convicted of a violation
 91 | of this section, in addition to restitution to the victim under
 92 | s. 775.089, the court may order restitution for the victim's
 93 | out-of-pocket costs, including attorney fees and fees associated
 94 | with services provided by certified public accountants licensed
 95 | under chapter 473, incurred by the victim in clearing the
 96 | victim's credit history or credit rating, or costs incurred in
 97 | connection with a civil or administrative proceeding to satisfy
 98 | a debt, lien, or other obligation of the victim arising as a
 99 | result of the actions of the defendant.

100 | (b) The sentencing court may issue such orders as are
 101 | necessary to correct a public record that contains false
 102 | information given in violation of this section.

103 | (3) (a) A victim of the conduct subject to this section
 104 |

105 shall have a civil cause of action against a person who has
106 engaged in the conduct prohibited by this section as provided in
107 s. 772.11.

108 (b) For purposes of this subsection, the term "victim"
109 includes, to the extent not already included within s. 817.568,
110 a person whose identity was falsely personated or who suffers a
111 loss of property as a result of the false personation.

112 Section 3. Section 817.032, Florida Statutes, is created
113 to read:

114 817.032 Information available to identity theft victims.—

115 (1) DEFINITION.—As used in this section, the term "victim"
116 means a person whose means of identification or financial
117 information is used or transferred or is alleged to be used or
118 transferred without the authority of that person with the intent
119 to commit or to aid or abet an identity theft or a similar
120 crime.

121 (2) GENERALLY.—

122 (a) For the purpose of documenting fraudulent transactions
123 resulting from identity theft, within 30 days after the date of
124 receipt of a request from a victim in accordance with subsection
125 (4), and subject to verification of the identity of the victim
126 and the claim of identity theft in accordance with subsection
127 (3), a business entity that has provided credit to; provided for
128 consideration products, goods, or services to; accepted payment
129 from; or otherwise entered into a commercial transaction for
130 consideration with, a person who has allegedly made unauthorized

131 use of the means of identification of the victim, shall provide
132 a copy of the application and business transaction records in
133 the control of the business entity, whether maintained by the
134 business entity or by another person on behalf of the business
135 entity, evidencing any transaction alleged to be a result of
136 identity theft to:

137 1. The victim;

138 2. A federal, state, or local government law enforcement
139 agency, or officer specified by the victim in such a request; or

140 3. A law enforcement agency investigating the identity
141 theft and authorized by the victim to take receipt of records
142 provided under this section.

143 (b) This subsection does not apply to a third-party
144 providing a service to effect, administer, facilitate, process,
145 or enforce a financial transaction initiated by an individual.

146 (3) VERIFICATION OF IDENTITY AND CLAIM.—Before a business
147 entity provides any information under subsection (2), unless the
148 business entity, at its discretion, otherwise has a high degree
149 of confidence that it knows the identity of the victim making a
150 request under subsection (2), the victim shall provide to the
151 business entity:

152 (a) As proof of positive identification of the victim, at
153 the election of the business entity:

154 1. The presentation of a government-issued identification
155 card;

156 2. Personal identifying information of the same type as

157 provided to the business entity by the unauthorized person; or

158 3. Personal identifying information that the business
 159 entity typically requests from new applicants or for new
 160 transactions, at the time of the victim's request for
 161 information, including any documentation described in
 162 subparagraphs 1. and 2.

163 (b) As proof of a claim of identity theft:

164 1. A copy of a police report evidencing the claim of the
 165 victim of identity theft; and

166 2. A properly completed affidavit of fact that is
 167 acceptable to the business entity for that purpose.

168 (4) PROCEDURES.—The request of a victim under subsection
 169 (2) shall:

170 (a) Be in writing;

171 (b) Be mailed or delivered to an address specified by the
 172 business entity, if any.

173 (c) If asked by the business entity, include relevant
 174 information about any transaction alleged to be a result of
 175 identity theft to facilitate compliance with this section,
 176 including:

177 1. If known by the victim or readily obtainable by the
 178 victim, the date of the application or transaction.

179 2. If known by the victim or readily obtainable by the
 180 victim, any other identifying information such as an account
 181 number or transaction number.

182 (5) NO CHARGE TO VICTIM.—Information required to be

183 provided under subsection (2) shall be provided without charge.

184 (6) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A
185 business entity may decline to provide information under
186 subsection (2) if, in the exercise of good faith, the business
187 entity determines that:

188 (a) This section does not require disclosure of the
189 information;

190 (b) After reviewing the information provided pursuant to
191 subsection (3), the business entity does not have a high degree
192 of confidence in knowing the true identity of the individual
193 requesting the information;

194 (c) The request for the information is based on a
195 misrepresentation of fact by the individual requesting the
196 information;

197 (d) The information requested is Internet navigational
198 data or similar information about a person's visit to a website
199 or online service; or

200 (e) The disclosure is otherwise prohibited by state or
201 federal law.

202 (7) LIMITATION ON CIVIL LIABILITY.—A business entity may
203 not be held civilly liable in this state for a disclosure made
204 in good faith pursuant to this section or a decision to decline
205 to provide information as provided in subsection (6).

206 (8) NO NEW RECORDKEEPING OBLIGATION.—This section does not
207 create an obligation on the part of a business entity to obtain,
208 retain, or maintain information or records that are not

209 otherwise required to be obtained, retained, or maintained in
 210 the ordinary course of its business or under other applicable
 211 law.

212 (9) AFFIRMATIVE DEFENSE.—In any civil action brought to
 213 enforce this section, it is an affirmative defense, which the
 214 defendant must establish by a preponderance of the evidence, for
 215 a business entity to file an affidavit or answer stating that:

216 (a) The business entity has made a reasonably diligent
 217 search of its available business records.

218 (b) The records requested under this section do not exist
 219 or are not reasonably available.

220 Section 4. Section 817.11, Florida Statutes, is amended,
 221 and sections 817.12 and 817.13, Florida Statutes, are
 222 transferred, renumbered as subsections (2) and (3),
 223 respectively, of section 817.11, Florida Statutes, and amended,
 224 to read:

225 817.11 Obtaining property by fraudulent promise to furnish
 226 inside information.—

227 (1) A ~~No~~ person may not ~~shall~~ defraud or attempt to
 228 defraud any individual out of anything ~~any thing~~ of value by
 229 assuming to have or be able to obtain any secret, advance or
 230 inside information regarding any person, transaction, act or
 231 thing, whether such person, transaction, act or thing exists or
 232 not.

233 (2) ~~817.12~~ A person who violates this section commits
 234 Penalty for violation of s. 817.11. ~~Any person guilty of~~

235 ~~violating the provisions of s. 817.11 shall be deemed guilty of~~
 236 a felony of the third degree, punishable as provided in s.
 237 775.082, s. 775.083, or s. 775.084.

238 (3) ~~817.13 Paraphernalia as evidence of violation of s.~~
 239 ~~817.11.~~ All paraphernalia of whatsoever kind in possession of
 240 any person and used in defrauding or attempting to defraud as
 241 specified in this section ~~s. 817.11~~ shall be held and accepted
 242 by any court of competent jurisdiction in this state as prima
 243 facie evidence of guilt.

244 Section 5. Section 817.14, Florida Statutes, is amended to
 245 read:

246 817.14 Procuring assignments of produce upon false
 247 representations.—A ~~Any~~ person acting for himself or herself or
 248 another person, who shall procure any consignment of produce
 249 grown in this state, to himself or herself or such other, for
 250 sale on commission or for other compensation by any knowingly
 251 false representation as to the prevailing market price at such
 252 time for such produce at the point to which it is consigned, or
 253 as to the price which such person for whom he or she is acting
 254 is at said time paying to other consignors for like produce at
 255 said place, or as to the condition of the market for such
 256 produce at such time and place, and any such person acting for
 257 another who shall procure any consignment for sale as aforesaid
 258 by false representation of authority to him or her by such other
 259 to make a guaranteed price to the consignor, commits ~~shall be~~
 260 ~~guilty of~~ a misdemeanor of the first degree, punishable as

261 provided in s. 775.082 or s. 775.083.

262 Section 6. Section 817.15, Florida Statutes, is amended to
 263 read:

264 817.15 ~~Making~~ False entries ~~in, etc., on~~ books of business
 265 entity corporation.—Any officer, agent, clerk or servant of a
 266 business entity corporation who makes a false entry in the books
 267 thereof, with intent to defraud, and any person whose duty it is
 268 to make in such books a record or entry of the transfer of
 269 stock, or of the issuing and canceling of certificates thereof,
 270 or of the amount of stock issued by such business entity
 271 corporation, who omits to make a true record or entry thereof,
 272 with intent to defraud, commits ~~shall be guilty of~~ a felony of
 273 the third degree, punishable as provided in s. 775.082, s.
 274 775.083, or s. 775.084.

275 Section 7. Section 817.17, Florida Statutes, is amended to
 276 read:

277 817.17 Wrongful use of city, county, or other political
 278 subdivision name.—

279 (1) A ~~No~~ person or persons engaged in manufacturing in
 280 this state, may not ~~shall~~ cause to be printed, stamped, marked,
 281 engraved or branded, upon any of the articles manufactured by
 282 them, or on any of the boxes, packages, or bands containing such
 283 manufactured articles, the name of any city, county, or other
 284 political subdivision of ~~in~~ the state, other than that in which
 285 said articles are manufactured; provided, that ~~nothing in~~ this
 286 section does not ~~shall~~ prohibit any person from offering for

287 sale any goods having marked thereon the name of any city,
 288 county, or other political subdivision of the state ~~in Florida~~
 289 other than that in which said goods were manufactured, if there
 290 be no manufactory of similar goods in the city, county, or other
 291 political subdivision the name of which is used.

292 (2) A person violating this section commits a misdemeanor
 293 of the second degree, punishable as provided in s. 775.083.

294 Section 8. Section 817.18, Florida Statutes, is amended to
 295 read:

296 817.18 Wrongful marking with a city, county, or other
 297 political subdivision name ~~stamping, marking, etc.; penalty.-~~

298 (1) A ~~No~~ person may not ~~shall~~ knowingly sell or offer for
 299 sale, within the state, any manufactured articles which shall
 300 have printed, stamped, marked, engraved, or branded upon them,
 301 or upon the boxes, packages, or bands containing said
 302 manufactured articles, the name of any city, county, or other
 303 political subdivision of ~~in~~ the state, other than that in which
 304 such articles were manufactured; provided, that ~~nothing in this~~
 305 section does not ~~shall~~ prohibit any person from offering for
 306 sale any goods, having marked thereon the name of any city,
 307 county, or other political subdivision of the state ~~in Florida,~~
 308 other than that in which said goods are manufactured, if there
 309 be no manufactory of similar goods in the city, county, or other
 310 political subdivision the name of which is used.

311 (2) A ~~Any~~ person violating ~~the provisions of this or the~~
 312 ~~preceding~~ section commits ~~shall be guilty of~~ a misdemeanor of

313 the second degree, punishable as provided in s. 775.083.

314 Section 9. Section 817.19, Florida Statutes, is amended to
315 read:

316 817.19 Fraudulent issue of stock certificate or indicia of
317 membership interest ~~of stock of corporation.~~—Any officer, agent,
318 clerk or servant of a corporation, or any other person, who
319 fraudulently issues or transfers a certificate of stock of a
320 corporation or indicia of a membership interest in a limited
321 liability company to any person not entitled thereto, or
322 fraudulently signs such certificate or other indicia of
323 membership interest, in blank or otherwise, with the intent that
324 it shall be so issued or transferred by himself or herself or
325 any other person, commits ~~shall be guilty of~~ a felony of the
326 third degree, punishable as provided in s. 775.082, s. 775.083,
327 or s. 775.084.

328 Section 10. Subsections (1) and (3) of section 817.39,
329 Florida Statutes, are amended to read:

330 817.39 Simulated forms of court or legal process, or
331 official seal or stationery; publication, sale or circulation
332 unlawful; penalty.—

333 (1) Any person, ~~firm,~~ or business entity ~~corporation~~ who
334 prints ~~shall print,~~ for the purpose of sale or distribution and
335 for use in the state, or who circulates, publishes, or offers
336 ~~shall circulate, publish, or offer~~ for sale any letter, paper,
337 document, notice of intent to bring suit, or other notice or
338 demand, which simulates a form of court or legal process, or any

339 person who without authority of the state prints ~~shall print~~,
 340 for the purpose of sale or distribution for use in the state, or
 341 who without authority of the state circulates, publishes, or
 342 offers ~~shall circulate, publish, use, or offer~~ for sale any
 343 letters, papers, or documents which simulate the seal of the
 344 state, or the stationery of a state agency or fictitious state
 345 agency commits ~~is guilty of~~ a misdemeanor of the second degree,
 346 punishable as provided in s. 775.082 or s. 775.083.

347 (3) ~~Nothing in~~ This section does not ~~shall~~ prevent the
 348 printing, publication, sale, or distribution of genuine legal
 349 forms for the use of attorneys or clerks of courts.

350 Section 11. Subsection (5) of section 817.40, Florida
 351 Statutes, is amended to read:

352 817.40 False, misleading and deceptive advertising and
 353 sales; definitions.—When construing ss. 817.40, 817.41, 817.43-
 354 817.47, and each and every word, phrase or part thereof, where
 355 the context will permit:

356 (5) The phrase "misleading advertising" includes any
 357 statements made, or disseminated, in oral, written, electronic,
 358 or printed form or otherwise, to or before the public, or any
 359 portion thereof, which are known, or through the exercise of
 360 reasonable care or investigation could or might have been
 361 ascertained, to be untrue or misleading, and which are or were
 362 so made or disseminated with the intent or purpose, either
 363 directly or indirectly, of selling or disposing of real or
 364 personal property, services of any nature whatever, professional

365 or otherwise, or to induce the public to enter into any
 366 obligation relating to such property or services.

367 Section 12. Section 817.411, Florida Statutes, is amended
 368 to read:

369 817.411 False information; advertising.—A ~~No person, firm~~
 370 or business entity may not ~~corporation shall~~ knowingly publish,
 371 disseminate, circulate, or place before the public, or cause
 372 directly or indirectly, to be made, published, disseminated,
 373 circulated, or placed before the public, in a newspaper,
 374 magazine or other publication, or in the form of a notice,
 375 circular, pamphlet, letter or poster, or over any radio or
 376 television station, electronically, or in any other way, any
 377 advertisement, announcement, or statement containing any
 378 assertion, representation, or statement that commodities,
 379 mortgages, promissory notes, securities, or other things of
 380 value offered for sale are covered by insurance guaranties where
 381 such insurance is nonexistent or does not in fact insure against
 382 the risks covered.

383 Section 13. Section 817.412, Florida Statutes, is amended
 384 to read:

385 817.412 Sale of used goods as new; penalty.—

386 (1) It is unlawful for a seller in a transaction where the
 387 purchase price of goods exceeds \$100 to misrepresent orally, in
 388 writing, electronically, or by failure to speak that the goods
 389 are new or original when they are used or repossessed or where
 390 they have been used for sales demonstration.

391 (2) A person who violates ~~the provisions of~~ this section
 392 commits a misdemeanor of the first degree, punishable as
 393 provided in s. 775.082 or s. 775.083.

394 Section 14. Section 817.414, Florida Statutes, is created
 395 to read:

396 817.414 Sale of counterfeit security signs and decals.—A
 397 person who willfully and knowingly sells or attempts to sell a
 398 counterfeit sign or decal in this state with the name or logo of
 399 a security company without the express written consent of the
 400 company commits:

401 (1) For the first offense, a misdemeanor of the second
 402 degree, punishable as provided in s. 775.082 or s. 775.083.

403 (2) For a second or subsequent offense, a misdemeanor of
 404 the first degree, punishable as provided in s. 775.082 or s.
 405 775.083.

406 Section 15. Subsection (1) of section 817.481, Florida
 407 Statutes, is amended to read:

408 817.481 Credit or purchases cards; obtaining illicitly
 409 ~~goods by use of false, expired, etc.; penalty.—~~

410 (1) It shall be unlawful for any person knowingly to
 411 obtain or attempt to obtain credit, or to purchase or attempt to
 412 purchase any goods, property, or service, by the use of any
 413 false, fictitious, counterfeit, or expired credit card,
 414 telephone number, credit number, or other credit device, or by
 415 the use of any credit card, telephone number, credit number, or
 416 other credit device of another person without the authority of

417 the person to whom such card, number or device was issued, or by
 418 the use of any credit card, telephone number, credit number, or
 419 other credit device in any case where such card, number or
 420 device has been revoked and notice of revocation has been given
 421 to the person to whom issued.

422 Section 16. Section 817.50, Florida Statutes, is amended
 423 to read:

424 817.50 Fraudulently obtaining goods or ~~services, etc.~~
 425 from a health care provider.-

426 (1) Whoever shall, willfully and with intent to defraud,
 427 obtain or attempt to obtain goods, products, merchandise, or
 428 services from any health care provider in this state, as defined
 429 in s. 641.19(14), commits a felony ~~misdemeanor~~ of the third
 430 ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
 431 775.083, or s. 775.084.

432 (2) If any person gives to any health care provider in
 433 this state a false or fictitious name or a false or fictitious
 434 address or assigns to any health care provider the proceeds of
 435 any health maintenance contract or insurance contract, then
 436 knowing that such contract is no longer in force, is invalid, or
 437 is void for any reason, such action shall be prima facie
 438 evidence of the intent of such person to defraud the health care
 439 provider. However, this subsection does not apply to
 440 investigative actions taken by law enforcement officers for law
 441 enforcement purposes in the course of their official duties.

442 Section 17. Paragraph (f) of subsection (1) and

443 subsections (2), (4), (8), and (9) of section 817.568, Florida
 444 Statutes, are amended to read:

445 817.568 Criminal use of personal identification
 446 information.—

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

448 (f) "Personal identification information" means any name
 449 or number that may be used, alone or in conjunction with any
 450 other information, to identify a specific person ~~individual~~,
 451 including any:

452 1. Name, postal or electronic mail address, telephone
 453 number, social security number, date of birth, mother's maiden
 454 name, official state-issued or United States-issued driver
 455 license or identification number, alien registration number,
 456 government passport number, employer or taxpayer identification
 457 number, Medicaid or food assistance account number, bank account
 458 number, credit or debit card number, or personal identification
 459 number or code assigned to the holder of a debit card by the
 460 issuer to permit authorized electronic use of such card;

461 2. Unique biometric data, such as fingerprint, voice
 462 print, retina or iris image, or other unique physical
 463 representation;

464 3. Unique electronic identification number, address, or
 465 routing code;

466 4. Medical records;

467 5. Telecommunication identifying information or access
 468 device; or

469 6. Other number or information that can be used to access
470 a person's financial resources.

471 (2) (a) Any person who willfully and without authorization
472 fraudulently uses, or possesses with intent to fraudulently use,
473 personal identification information concerning another person ~~an~~
474 ~~individual~~ without first obtaining that person's ~~individual's~~
475 consent, commits the offense of fraudulent use of personal
476 identification information, which is a felony of the third
477 degree, punishable as provided in s. 775.082, s. 775.083, or s.
478 775.084.

479 (b) Any person who willfully and without authorization
480 fraudulently uses personal identification information concerning
481 a person ~~an individual~~ without first obtaining that person's
482 ~~individual's~~ consent commits a felony of the second degree,
483 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
484 if the pecuniary benefit, the value of the services received,
485 the payment sought to be avoided, or the amount of the injury or
486 fraud perpetrated is \$5,000 or more or if the person
487 fraudulently uses the personal identification information of 10
488 or more persons ~~individuals~~, but fewer than 20 persons
489 ~~individuals~~, without their consent. Notwithstanding any other
490 provision of law, the court shall sentence any person convicted
491 of committing the offense described in this paragraph to a
492 mandatory minimum sentence of 3 years' imprisonment.

493 (c) Any person who willfully and without authorization
494 fraudulently uses personal identification information concerning

495 a person ~~an individual~~ without first obtaining that person's
496 ~~individual's~~ consent commits a felony of the first degree,
497 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
498 if the pecuniary benefit, the value of the services received,
499 the payment sought to be avoided, or the amount of the injury or
500 fraud perpetrated is \$50,000 or more or if the person
501 fraudulently uses the personal identification information of 20
502 or more persons ~~individuals~~, but fewer than 30 persons
503 ~~individuals~~, without their consent. Notwithstanding any other
504 provision of law, the court shall sentence any person convicted
505 of committing the offense described in this paragraph to a
506 mandatory minimum sentence of 5 years' imprisonment. If the
507 pecuniary benefit, the value of the services received, the
508 payment sought to be avoided, or the amount of the injury or
509 fraud perpetrated is \$100,000 or more, or if the person
510 fraudulently uses the personal identification information of 30
511 or more persons ~~individuals~~ without their consent,
512 notwithstanding any other provision of law, the court shall
513 sentence any person convicted of committing the offense
514 described in this paragraph to a mandatory minimum sentence of
515 10 years' imprisonment.

516 (4) Any person who willfully and without authorization
517 possesses, uses, or attempts to use personal identification
518 information concerning a person ~~an individual~~ without first
519 obtaining that person's ~~individual's~~ consent, and who does so
520 for the purpose of harassing that person ~~individual~~, commits the

521 offense of harassment by use of personal identification
522 information, which is a misdemeanor of the first degree,
523 punishable as provided in s. 775.082 or s. 775.083.

524 (8) (a) Any person who willfully and fraudulently uses, or
525 possesses with intent to fraudulently use, personal
526 identification information concerning a deceased individual or
527 dissolved business entity commits the offense of fraudulent use
528 or possession with intent to use personal identification
529 information of a deceased individual or dissolved business
530 entity, a felony of the third degree, punishable as provided in
531 s. 775.082, s. 775.083, or s. 775.084.

532 (b) Any person who willfully and fraudulently uses
533 personal identification information concerning a deceased
534 individual or dissolved business entity commits a felony of the
535 second degree, punishable as provided in s. 775.082, s. 775.083,
536 or s. 775.084, if the pecuniary benefit, the value of the
537 services received, the payment sought to be avoided, or the
538 amount of injury or fraud perpetrated is \$5,000 or more, or if
539 the person fraudulently uses the personal identification
540 information of 10 or more but fewer than 20 deceased individuals
541 or dissolved business entities. Notwithstanding any other
542 provision of law, the court shall sentence any person convicted
543 of committing the offense described in this paragraph to a
544 mandatory minimum sentence of 3 years' imprisonment.

545 (c) Any person who willfully and fraudulently uses
546 personal identification information concerning a deceased

547 individual or dissolved business entity commits the offense of
548 aggravated fraudulent use of the personal identification
549 information of multiple deceased individuals or dissolved
550 business entities, a felony of the first degree, punishable as
551 provided in s. 775.082, s. 775.083, or s. 775.084, if the
552 pecuniary benefit, the value of the services received, the
553 payment sought to be avoided, or the amount of injury or fraud
554 perpetrated is \$50,000 or more, or if the person fraudulently
555 uses the personal identification information of 20 or more but
556 fewer than 30 deceased individuals or dissolved business
557 entities. Notwithstanding any other provision of law, the court
558 shall sentence any person convicted of the offense described in
559 this paragraph to a minimum mandatory sentence of 5 years'
560 imprisonment. If the pecuniary benefit, the value of the
561 services received, the payment sought to be avoided, or the
562 amount of the injury or fraud perpetrated is \$100,000 or more,
563 or if the person fraudulently uses the personal identification
564 information of 30 or more deceased individuals or dissolved
565 business entities, notwithstanding any other provision of law,
566 the court shall sentence any person convicted of an offense
567 described in this paragraph to a mandatory minimum sentence of
568 10 years' imprisonment.

569 (9) Any person who willfully and fraudulently creates or
570 uses, or possesses with intent to fraudulently use, counterfeit
571 or fictitious personal identification information concerning a
572 fictitious person ~~individual~~, or concerning a real person

573 ~~individual~~ without first obtaining that real person's
574 ~~individual's~~ consent, with intent to use such counterfeit or
575 fictitious personal identification information for the purpose
576 of committing or facilitating the commission of a fraud on
577 another person, commits the offense of fraudulent creation or
578 use, or possession with intent to fraudulently use, counterfeit
579 or fictitious personal identification information, a felony of
580 the third degree, punishable as provided in s. 775.082, s.
581 775.083, or s. 775.084.

582 Section 18. Section 817.569, Florida Statutes, is amended
583 to read:

584 817.569 Criminal use of a public record or public records
585 information; providing false information; penalties.—A person
586 who knowingly uses any public record, as defined in s. 119.011,
587 ~~or~~ who knowingly uses information obtainable only through such
588 public record, or who knowingly provides false information that
589 becomes part of a public record to facilitate or further the
590 commission of:

591 (1) A misdemeanor of the first degree, commits a
592 misdemeanor of the first degree, punishable as provided in s.
593 775.082 or s. 775.083.

594 (2) A felony, commits a felony of the third degree,
595 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

596 Section 19. Paragraphs (a) and (e) of subsection (3) of
597 section 921.0022, Florida Statutes, are amended to read:

598 921.0022 Criminal Punishment Code; offense severity

599 ranking chart.—

600 (3) OFFENSE SEVERITY RANKING CHART

601 (a) LEVEL 1

602

Florida	Felony	
Statute	Degree	Description

603

24.118 (3) (a)	3rd	Counterfeit or altered state lottery ticket.
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604

212.054 (2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
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605

212.15 (2) (b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
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606

316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
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607

319.30 (5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
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608

319.35 (1) (a)	3rd	Tamper, adjust, change, etc.,
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an odometer.

609

320.26(1)(a) 3rd Counterfeit, manufacture, or
sell registration license
plates or validation stickers.

610

322.212 3rd Possession of forged, stolen,
(1)(a)-(c) counterfeit, or unlawfully
issued driver license;
possession of simulated
identification.

611

322.212(4) 3rd Supply or aid in supplying
unauthorized driver license or
identification card.

612

322.212(5)(a) 3rd False application for driver
license or identification card.

613

414.39(2) 3rd Unauthorized use, possession,
forgery, or alteration of food
assistance program, Medicaid
ID, value greater than \$200.

614

414.39(3)(a) 3rd Fraudulent misappropriation of
public assistance funds by

			employee/official, value more than \$200.
615	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
616	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
617	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
618	562.27 (1)	3rd	Possess still or still apparatus.
619	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
620	812.014 (3) (c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).

621	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
622	815.04 (5) (a)	3rd	Offense against intellectual property (i.e., computer programs, data).
623	817.52 (2)	3rd	Hiring with intent to defraud, motor vehicle services.
624	817.569 (2)	3rd	Use of public record or public records information <u>or providing false information</u> to facilitate commission of a felony.
625	826.01	3rd	Bigamy.
626	828.122 (3)	3rd	Fighting or baiting animals.
627	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.

628	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
629	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
630	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
631	838.15 (2)	3rd	Commercial bribe receiving.
632	838.16	3rd	Commercial bribery.
633	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
634	847.011 (1) (a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
635			

636	849.01	3rd	Keeping gambling house.
637	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
638	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
639	849.25(2)	3rd	Engaging in bookmaking.
640	860.08	3rd	Interfere with a railroad signal.
641	860.13(1)(a)	3rd	Operate aircraft while under the influence.
642	893.13(2)(a)2.	3rd	Purchase of cannabis.
643	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
	934.03(1)(a)	3rd	Intercepts, or procures any

other person to intercept, any
wire or oral communication.

644

645 (e) LEVEL 5

646

Florida	Felony	
Statute	Degree	Description

647

316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
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648

316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
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649

322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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650

327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
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651

379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
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652	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
653	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
654	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
655	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
656	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
657	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or

more but less than \$100,000.

658

626.902 (1) (c) 2nd Representing an unauthorized insurer; repeat offender.

659

790.01 (2) 3rd Carrying a concealed firearm.

660

790.162 2nd Threat to throw or discharge destructive device.

661

790.163 (1) 2nd False report of deadly explosive or weapon of mass destruction.

662

790.221 (1) 2nd Possession of short-barreled shotgun or machine gun.

663

790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

664

796.05 (1) 2nd Live on earnings of a prostitute; 1st offense.

665

800.04 (6) (c) 3rd Lewd or lascivious conduct; offender less than 18 years of

			age.
666	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
667	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
668	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
669	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
670	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
671	812.131 (2) (b)	3rd	Robbery by sudden snatching.
672	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.

673	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
674	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
675	817.2341 (1) , (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
676	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more <u>persons</u> individuals.
677	817.625 (2) (b)	2nd	Second or subsequent fraudulent

			use of scanning device or reencoder.
678	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
679	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
680	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
681	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
682	843.01	3rd	Resist officer with violence to

			person; resist arrest with violence.
683	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
684	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
685	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
686	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
687	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
688	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d),

689	893.13(1)(c)2.	2nd	<p>(2)(a), (2)(b), or (2)(c)4. drugs).</p> <p>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</p>
690	893.13(1)(d)1.	1st	<p>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.</p>
691	893.13(1)(e)2.	2nd	<p>Sell, manufacture, or deliver cannabis or other drug prohibited under s.</p>

893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3., (2)(c)5.,
 (2)(c)6., (2)(c)7., (2)(c)8.,
 (2)(c)9., (3), or (4) within
 1,000 feet of property used for
 religious services or a
 specified business site.

692

893.13(1)(f)1. 1st Sell, manufacture, or deliver
 cocaine (or other s.
 893.03(1)(a), (1)(b), (1)(d),
 or (2)(a), (2)(b), or (2)(c)4.
 drugs) within 1,000 feet of
 public housing facility.

693

893.13(4)(b) 2nd Deliver to minor cannabis (or
 other s. 893.03(1)(c),
 (2)(c)1., (2)(c)2., (2)(c)3.,
 (2)(c)5., (2)(c)6., (2)(c)7.,
 (2)(c)8., (2)(c)9., (3), or (4)
 drugs).

694

893.1351(1) 3rd Ownership, lease, or rental for
 trafficking in or manufacturing
 of controlled substance.

695

CS/CS/CS/HB 157

2015

696

Section 20. This act shall take effect October 1, 2015.