

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

Committee/Subcommittee hearing bill: Criminal Justice
Subcommittee

Representative Smith offered the following:

Amendment (with title amendment)

Remove lines 30-63 and insert:

(b) For purposes of this subsection, the term "traffic," as it relates to food assistance benefits, includes:

1. Buying, selling, stealing, or otherwise effecting an exchange of food assistance benefits for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

2. Intentionally reselling a product purchased with food assistance benefits in exchange for cash or consideration other than eligible food; or

3. Intentionally purchasing a product originally purchased with food assistance benefits using cash or consideration other

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18 than eligible food.

19 (c)1. Notwithstanding subsection (5), a person who
 20 knowingly possesses in any manner not authorized by law two or
 21 more electronic benefit transfer cards for food assistance
 22 benefits which are issued to other persons and who sells or
 23 attempts to sell one or more of such cards commits a felony of
 24 the third degree, punishable as provided in s. 775.082, s.
 25 775.083, or s. 775.084. Each electronic benefit transfer card
 26 possessed, sold, or attempted to be sold in violation of this
 27 subparagraph constitutes a separate offense.

28 2. A person who commits a violation of subparagraph 1.
 29 shall be ordered by the court to serve at least 40 hours of
 30 community service. If the court determines that the community
 31 service can be performed at a nonprofit entity that provides the
 32 community with food services for the needy, the court shall
 33 order that the community service be performed at such an entity.

34 Section 2. Paragraph (a) of subsection (3) of section
 35 414.39, Florida Statutes, is amended to read:

36 921.0022 Criminal Punishment Code; offense severity
 37 ranking chart.—

38 (3) OFFENSE SEVERITY RANKING CHART

39 (a) LEVEL 1

40

Florida	Felony	
Statute	Degree	Description

41

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42	24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
43	212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
44	212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
45	316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
46	319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
47	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
48	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
	322.212	3rd	Possession of forged, stolen,

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49	(1) (a) - (c)		counterfeit, or unlawfully issued driver license; possession of simulated identification.
50	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
51	322.212 (5) (a)	3rd	False application for driver license or identification card.
52	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than \$200.
53	414.39(3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.

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509.151(1) 3rd Defraud an innkeeper, food or
lodging value greater than
\$300.

55

517.302(1) 3rd Violation of the Florida
Securities and Investor
Protection Act.

56

562.27(1) 3rd Possess still or still
apparatus.

57

713.69 3rd Tenant removes property upon
which lien has accrued, value
more than \$50.

58

812.014(3)(c) 3rd Petit theft (3rd conviction);
theft of any property not
specified in subsection (2).

59

812.081(2) 3rd Unlawfully makes or causes to
be made a reproduction of a
trade secret.

60

815.04(5)(a) 3rd Offense against intellectual
property (i.e., computer

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61			programs, data).
	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
62			
	817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
63			
	826.01	3rd	Bigamy.
64			
	828.122(3)	3rd	Fighting or baiting animals.
65			
	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
66			
	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
67			
	832.041(1)	3rd	Stopping payment with intent to

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68			defraud \$150 or more.
	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.
69			
	838.15(2)	3rd	Commercial bribe receiving.
70			
	838.16	3rd	Commercial bribery.
71			
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
72			
	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
73			
	849.01	3rd	Keeping gambling house.
74			
	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.

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849.23 3rd Gambling-related machines;
"common offender" as to
property rights.

76

849.25(2) 3rd Engaging in bookmaking.

77

860.08 3rd Interfere with a railroad
signal.

78

860.13(1)(a) 3rd Operate aircraft while under
the influence.

79

893.13(2)(a)2. 3rd Purchase of cannabis.

80

893.13(6)(a) 3rd Possession of cannabis (more
than 20 grams).

81

934.03(1)(a) 3rd Intercepts, or procures any
other person to intercept, any
wire or oral communication.

82

83 Section 3. For the purpose of incorporating the amendment
84 made by this act to section 414.39, Florida Statutes, in a
85 reference thereto, paragraph (b) of subsection (1) of section
86 414.41, Florida Statutes, is reenacted to read:

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87 414.41 Recovery of payments made due to mistake or fraud.—

88 (1) Whenever it becomes apparent that any person or
89 provider has received any public assistance under this chapter
90 to which she or he is not entitled, through either simple
91 mistake or fraud on the part of the department or on the part of
92 the recipient or participant, the department shall take all
93 necessary steps to recover the overpayment. Recovery may include
94 Federal Income Tax Refund Offset Program collections activities
95 in conjunction with the Food and Nutrition Service and the
96 Internal Revenue Service to intercept income tax refunds due to
97 clients who owe food assistance or temporary cash assistance
98 debt to the state. The department will follow the guidelines in
99 accordance with federal rules and regulations and consistent
100 with the Food Assistance Program. The department may make
101 appropriate settlements and shall establish a policy and cost-
102 effective rules to be used in the computation and recovery of
103 such overpayments.

104 (b) When the intentional program violation or case facts
105 do not warrant criminal prosecution for fraud as defined in s.
106 414.39, the department will initiate an administrative
107 disqualification hearing. The administrative disqualification
108 hearing will be initiated regardless of the individual's current
109 eligibility.

110 Section 4. For the purpose of incorporating the amendment
111 made by this act to section 414.39, Florida Statutes, in a
112 reference thereto, paragraph (a) of subsection (1) of section

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113 772.102, Florida Statutes, is reenacted to read:

114 772.102 Definitions.—As used in this chapter, the term:

115 (1) "Criminal activity" means to commit, to attempt to
116 commit, to conspire to commit, or to solicit, coerce, or
117 intimidate another person to commit:

118 (a) Any crime that is chargeable by indictment or
119 information under the following provisions:

120 1. Section 210.18, relating to evasion of payment of
121 cigarette taxes.

122 2. Section 414.39, relating to public assistance fraud.

123 3. Section 440.105 or s. 440.106, relating to workers'
124 compensation.

125 4. Part IV of chapter 501, relating to telemarketing.

126 5. Chapter 517, relating to securities transactions.

127 6. Section 550.235 or s. 550.3551, relating to dogracing
128 and horseracing.

129 7. Chapter 550, relating to jai alai frontons.

130 8. Chapter 552, relating to the manufacture, distribution,
131 and use of explosives.

132 9. Chapter 562, relating to beverage law enforcement.

133 10. Section 624.401, relating to transacting insurance
134 without a certificate of authority, s. 624.437(4)(c)1., relating
135 to operating an unauthorized multiple-employer welfare
136 arrangement, or s. 626.902(1)(b), relating to representing or
137 aiding an unauthorized insurer.

138 11. Chapter 687, relating to interest and usurious

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- 139 practices.
- 140 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 141 real estate timeshare plans.
- 142 13. Chapter 782, relating to homicide.
- 143 14. Chapter 784, relating to assault and battery.
- 144 15. Chapter 787, relating to kidnapping or human
- 145 trafficking.
- 146 16. Chapter 790, relating to weapons and firearms.
- 147 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 148 relating to prostitution.
- 149 18. Chapter 806, relating to arson.
- 150 19. Section 810.02(2)(c), relating to specified burglary
- 151 of a dwelling or structure.
- 152 20. Chapter 812, relating to theft, robbery, and related
- 153 crimes.
- 154 21. Chapter 815, relating to computer-related crimes.
- 155 22. Chapter 817, relating to fraudulent practices, false
- 156 pretenses, fraud generally, and credit card crimes.
- 157 23. Section 827.071, relating to commercial sexual
- 158 exploitation of children.
- 159 24. Chapter 831, relating to forgery and counterfeiting.
- 160 25. Chapter 832, relating to issuance of worthless checks
- 161 and drafts.
- 162 26. Section 836.05, relating to extortion.
- 163 27. Chapter 837, relating to perjury.
- 164 28. Chapter 838, relating to bribery and misuse of public

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165 office.

166 29. Chapter 843, relating to obstruction of justice.

167 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
168 s. 847.07, relating to obscene literature and profanity.

169 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
170 849.25, relating to gambling.

171 32. Chapter 893, relating to drug abuse prevention and
172 control.

173 33. Section 914.22 or s. 914.23, relating to witnesses,
174 victims, or informants.

175 34. Section 918.12 or s. 918.13, relating to tampering
176 with jurors and evidence.

177 Section 5. For the purpose of incorporating the amendment
178 made by this act to section 414.39, Florida Statutes, in a
179 reference thereto, paragraph (a) of subsection (1) of section
180 895.02, Florida Statutes, is reenacted to read:

181 895.02 Definitions.—As used in ss. 895.01-895.08, the
182 term:

183 (1) "Racketeering activity" means to commit, to attempt to
184 commit, to conspire to commit, or to solicit, coerce, or
185 intimidate another person to commit:

186 (a) Any crime that is chargeable by petition, indictment,
187 or information under the following provisions of the Florida
188 Statutes:

189 1. Section 210.18, relating to evasion of payment of
190 cigarette taxes.

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- 191 2. Section 316.1935, relating to fleeing or attempting to
192 elude a law enforcement officer and aggravated fleeing or
193 eluding.
- 194 3. Section 403.727(3)(b), relating to environmental
195 control.
- 196 4. Section 409.920 or s. 409.9201, relating to Medicaid
197 fraud.
- 198 5. Section 414.39, relating to public assistance fraud.
- 199 6. Section 440.105 or s. 440.106, relating to workers'
200 compensation.
- 201 7. Section 443.071(4), relating to creation of a
202 fictitious employer scheme to commit reemployment assistance
203 fraud.
- 204 8. Section 465.0161, relating to distribution of medicinal
205 drugs without a permit as an Internet pharmacy.
- 206 9. Section 499.0051, relating to crimes involving
207 contraband and adulterated drugs.
- 208 10. Part IV of chapter 501, relating to telemarketing.
- 209 11. Chapter 517, relating to sale of securities and
210 investor protection.
- 211 12. Section 550.235 or s. 550.3551, relating to dogracing
212 and horseracing.
- 213 13. Chapter 550, relating to jai alai frontons.
- 214 14. Section 551.109, relating to slot machine gaming.
- 215 15. Chapter 552, relating to the manufacture,
216 distribution, and use of explosives.

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217 16. Chapter 560, relating to money transmitters, if the
218 violation is punishable as a felony.

219 17. Chapter 562, relating to beverage law enforcement.

220 18. Section 624.401, relating to transacting insurance
221 without a certificate of authority, s. 624.437(4)(c)1., relating
222 to operating an unauthorized multiple-employer welfare
223 arrangement, or s. 626.902(1)(b), relating to representing or
224 aiding an unauthorized insurer.

225 19. Section 655.50, relating to reports of currency
226 transactions, when such violation is punishable as a felony.

227 20. Chapter 687, relating to interest and usurious
228 practices.

229 21. Section 721.08, s. 721.09, or s. 721.13, relating to
230 real estate timeshare plans.

231 22. Section 775.13(5)(b), relating to registration of
232 persons found to have committed any offense for the purpose of
233 benefiting, promoting, or furthering the interests of a criminal
234 gang.

235 23. Section 777.03, relating to commission of crimes by
236 accessories after the fact.

237 24. Chapter 782, relating to homicide.

238 25. Chapter 784, relating to assault and battery.

239 26. Chapter 787, relating to kidnapping or human
240 trafficking.

241 27. Chapter 790, relating to weapons and firearms.

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- 242 28. Chapter 794, relating to sexual battery, but only if
243 such crime was committed with the intent to benefit, promote, or
244 further the interests of a criminal gang, or for the purpose of
245 increasing a criminal gang member's own standing or position
246 within a criminal gang.
- 247 29. Former s. 796.03, former s. 796.035, s. 796.04, s.
248 796.05, or s. 796.07, relating to prostitution.
- 249 30. Chapter 806, relating to arson and criminal mischief.
- 250 31. Chapter 810, relating to burglary and trespass.
- 251 32. Chapter 812, relating to theft, robbery, and related
252 crimes.
- 253 33. Chapter 815, relating to computer-related crimes.
- 254 34. Chapter 817, relating to fraudulent practices, false
255 pretenses, fraud generally, and credit card crimes.
- 256 35. Chapter 825, relating to abuse, neglect, or
257 exploitation of an elderly person or disabled adult.
- 258 36. Section 827.071, relating to commercial sexual
259 exploitation of children.
- 260 37. Section 828.122, relating to fighting or baiting
261 animals.
- 262 38. Chapter 831, relating to forgery and counterfeiting.
- 263 39. Chapter 832, relating to issuance of worthless checks
264 and drafts.
- 265 40. Section 836.05, relating to extortion.
- 266 41. Chapter 837, relating to perjury.

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267 42. Chapter 838, relating to bribery and misuse of public
268 office.

269 43. Chapter 843, relating to obstruction of justice.

270 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
271 s. 847.07, relating to obscene literature and profanity.

272 45. Chapter 849, relating to gambling, lottery, gambling
273 or gaming devices, slot machines, or any of the provisions
274 within that chapter.

275 46. Chapter 874, relating to criminal gangs.

276 47. Chapter 893, relating to drug abuse prevention and
277 control.

278 48. Chapter 896, relating to offenses related to financial
279 transactions.

280 49. Sections 914.22 and 914.23, relating to tampering with
281 or harassing a witness, victim, or informant, and retaliation
282 against a witness, victim, or informant.

283 50. Sections 918.12 and 918.13, relating to tampering with
284 jurors and evidence.

285 Section 6. For the purpose of incorporating the amendment
286 made by this act to section 414.39, Florida Statutes, in
287 references thereto, subsection (5) of section 1002.91, Florida
288 Statutes, is reenacted to read:

289 1002.91 Investigations of fraud or overpayment;
290 penalties.—

291 (5) If a school readiness program provider or a Voluntary
292 Prekindergarten Education Program provider, or an owner,

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293 officer, or director thereof, is convicted of, found guilty of,
 294 or pleads guilty or nolo contendere to, regardless of
 295 adjudication, public assistance fraud pursuant to s. 414.39, or
 296 is acting as the beneficial owner for someone who has been
 297 convicted of, found guilty of, or pleads guilty or nolo
 298 contendere to, regardless of adjudication, public assistance
 299 fraud pursuant to s. 414.39, the early learning coalition shall
 300 refrain from contracting with, or using the services of, that
 301 provider for a period of 5 years. In addition, the coalition
 302 shall refrain from contracting with, or using the services of,
 303 any provider that shares an officer or director with a provider
 304 that is convicted of, found guilty of, or pleads guilty or nolo
 305 contendere to, regardless of adjudication, public assistance
 306 fraud pursuant to s. 414.39 for a period of 5 years.

T I T L E A M E N D M E N T

Remove lines 2-8 and insert:

311 An act relating to public assistance fraud; amending s. 414.39,
 312 F.S.; specifying acts that constitute trafficking in food
 313 assistance benefits and are subject to criminal penalties;
 314 prohibiting specified acts relating to the possession and sale
 315 of electronic benefits transfer cards for food assistance
 316 benefits which are issued to other persons; providing criminal
 317 penalties; amending s. 921.0022, F.S.; deleting reference to s.
 318 414.39(2), F.S., relating to the unauthorized use, possession,

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319 | forgery, or alteration of certain food assistance program and
320 | Medicaid identification, from the offense severity ranking
321 | chart; reenacting ss. 414.41(1)(b), 772.102(1)(a), 895.02(1)(a),
322 | and 1002.91(5), F.S., relating to recovery of payments made due
323 | to mistake or fraud, definitions for civil remedies for criminal
324 | practices, definitions for racketeering, and investigations of
325 | fraud or overpayment, respectively, to incorporate the amendment
326 | made by this act to s. 414.39, F.S.;