

By Senator Garcia

36-00641A-23

2023232__

1 A bill to be entitled
2 An act relating to the exploitation of vulnerable
3 persons; creating s. 817.5695, F.S.; defining terms;
4 specifying conditions under which a person commits
5 exploitation of a person 65 years of age or older;
6 providing criminal penalties for violations of the
7 act; providing circumstances under which the trial for
8 a criminal action arising from specified violations
9 may be advanced on the docket; authorizing persons who
10 are in imminent danger of exploitation to petition for
11 an injunction for protection; specifying applicable
12 penalties for violations of any such injunction;
13 amending s. 775.15, F.S.; providing time limitations
14 for commencing prosecution for violations of the act;
15 providing an exception for the time limitations for
16 commencing prosecution for certain felony violations
17 involving elderly persons or disabled adults if
18 certain conditions are met; amending s. 921.0022,
19 F.S.; ranking specified offenses created by the act
20 involving the exploitation of a person 65 years of age
21 or older on the offense severity ranking chart of the
22 Criminal Punishment Code; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 817.5695, Florida Statutes, is created
27 to read:

28 817.5695 Exploitation of a person 65 years of age or
29 older.-

36-00641A-23

2023232__

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

31 (a) "Bribe" means any money or anything of value which is
32 provided, directly or indirectly, to a person who has a legal or
33 fiduciary relationship with a person 65 years of age or older,
34 for the purpose of improperly obtaining or rewarding favorable
35 treatment from the person who has the legal or fiduciary
36 relationship in connection with his or her work for the person
37 65 years of age or older.

38 (b) "Deception" means:

39 1. Misrepresenting or concealing a material fact relating
40 to:

41 a. Services rendered, disposition of property, or use of
42 property, when such services or property are intended to benefit
43 a person 65 years of age or older;

44 b. Terms of a contract, agreement, trust, will, or
45 testament entered into with a person 65 years of age or older;
46 or

47 c. An existing or preexisting condition of any property
48 involved in a contract, agreement, trust, will, or testament
49 entered into with a person 65 years of age or older; or

50 2. Using any misrepresentation, false pretense, or false
51 promise in order to induce, encourage, or solicit a person 65
52 years of age or older to enter into a contract, agreement,
53 trust, will, or testament.

54 (c) "Endeavor" means to attempt or to try.

55 (d) "Fiduciary relationship" includes, but is not limited
56 to, a court-appointed or voluntary guardian, trustee, attorney,
57 or conservator.

58 (e) "Intimidation" means the communication by word or act

36-00641A-23

2023232__

59 to a person 65 years of age or older that the person will be
60 deprived of food, nutrition, clothing, shelter, supervision,
61 medicine, medical services, money, or financial support or will
62 suffer physical violence.

63 (f) "Kickback" means money, credit, a fee, a commission, a
64 gift, a gratuity or other compensation, or anything of value
65 which is provided to a person in exchange for preferential
66 treatment for the receipt of goods or services.

67 (g) "Obtains or uses" means any manner of:

- 68 1. Taking or exercising control over property; or
- 69 2. Making any use, disposition, or transfer of property.

70 (h) "Property" means anything of value and includes, but is
71 not limited to:

72 1. Real property, including things growing on, affixed to,
73 or found in land.

74 2. Tangible or intangible personal property, including
75 intellectual property, rights, privileges, interests, and
76 claims.

77 3. Services.

78 (i) "Services" means anything of value resulting from a
79 person's physical or mental labor or skill, or from the use,
80 possession, or presence of property, and includes, but is not
81 limited to:

82 1. Repairs or improvements to property;

83 2. Professional services;

84 3. Private, public, or governmental communication,
85 transportation, power, water, or sanitation services;

86 4. Lodging accommodations; or

87 5. Admissions to places of exhibition or entertainment.

36-00641A-23

2023232__

88 (j) "Value" means value determined according to any of the
89 following:

90 1. The market value of the property at the time and place
91 of the offense, or, if the market value cannot be satisfactorily
92 ascertained, the value is the cost of replacing the property
93 within a reasonable time after the commission of the offense;

94 2. In the case of a written instrument, such as a check,
95 draft, or promissory note, which does not have a readily
96 ascertainable market value, the value is the amount due or
97 collectible. The value of any other instrument that creates,
98 releases, discharges, or otherwise affects any valuable legal
99 right, privilege, or obligation is the greatest amount of
100 economic loss that the owner of the instrument might reasonably
101 suffer by the diminishment or loss of the instrument;

102 3. The value of a trade secret that does not have a readily
103 ascertainable market value is any reasonable value representing
104 the damage to the owner suffered by reason of losing advantage
105 over those who do not know of or use the trade secret; or

106 4. If the value of the property cannot be ascertained, the
107 trier of fact may find the value to be not less than a certain
108 amount; if no such minimum value can be ascertained, the value
109 is an amount less than \$100.

110
111 Amounts of value of separate properties involved in exploitation
112 committed pursuant to one scheme or course of conduct, whether
113 the exploitation involves the same person or several persons,
114 may be aggregated in determining the degree of the offense.

115 (2) A person commits exploitation of a person 65 years of
116 age or older if he or she:

36-00641A-23

2023232__

117 (a) Obtains or uses, endeavors to obtain or use, or
118 conspires with another to obtain or use, through deception or
119 intimidation, the property of a person 65 years of age or older,
120 with the intent to temporarily or permanently:

121 1. Deprive that person of the use, benefit, or possession
122 of the property; or

123 2. Benefit someone other than the property owner.

124 (b) Obtains or uses, endeavors to obtain or use, or
125 conspires with another to obtain or use, through deception or
126 intimidation, the property of a person 65 years of age or older
127 by violating his or her intent as expressed in a will, trust
128 instrument, or other testamentary devise and the individual has
129 a fiduciary duty to the person 65 years of age or older; or

130 (c) Deprives, endeavors to deprive, or conspires with
131 another to deprive, with the intent to defraud and by means of
132 bribery or kickbacks, a person 65 years of age or older of his
133 or her intangible right to honest services provided by an
134 individual who has a legal or fiduciary relationship with such
135 person.

136 (3) A person who violates this section commits:

137 (a) A felony of the first degree, punishable as provided in
138 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
139 property involved in the exploitation of a person 65 years of
140 age or older is valued at \$50,000 or more.

141 (b) A felony of the second degree, punishable as provided
142 in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets,
143 or property involved in the exploitation of a person 65 years of
144 age or older is valued at \$10,000 or more, but less than
145 \$50,000.

36-00641A-23

2023232__

146 (c) A felony of the third degree, punishable as provided in
147 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
148 property involved in the exploitation of a person 65 years of
149 age or older is valued at less than \$10,000.

150 (4) In a criminal action resulting from a violation of this
151 section, the state may move the court to advance the trial on
152 the docket. The presiding judge, after consideration of the age
153 and health of the victim, may advance the trial on the docket.
154 The motion may be filed and served with the information or
155 charges at any time thereafter.

156 (5) Notwithstanding s. 825.1035(2), a person 65 years of
157 age or older who is in imminent danger of being exploited may
158 petition for an injunction for protection as provided under s.
159 825.1035. A violation of such injunction shall be handled in the
160 same manner, and such violation shall have the same penalties,
161 as provided in s. 825.1036.

162 Section 2. Subsection (10) of section 775.15, Florida
163 Statutes, is amended to read:

164 775.15 Time limitations; general time limitations;
165 exceptions.—

166 (10) (a) A prosecution for a felony violation of s.
167 817.5695, s. 825.102, or s. 825.103 must be commenced within 5
168 years after it is committed.

169 (b) If the period prescribed in paragraph (a) has expired,
170 a prosecution may nevertheless be commenced for any offense, a
171 material element of which is either fraud or a breach of
172 fiduciary obligation, within 5 years after discovery of the
173 offense by an aggrieved party or by a person who has a legal
174 duty to represent an aggrieved party and who is not a party to

36-00641A-23

2023232__

175 the offense.

176 Section 3. Paragraphs (c) and (e) of subsection (3) of
 177 section 921.0022, Florida Statutes, are amended to read:

178 921.0022 Criminal Punishment Code; offense severity ranking
 179 chart.—

180 (3) OFFENSE SEVERITY RANKING CHART

181 (c) LEVEL 3

182

Florida Statute	Felony Degree	Description
119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30 (4)	3rd	Possession by junkyard of motor vehicle with

187

36-00641A-23

2023232__

identification number plate removed.

188

319.33(1)(a)

3rd

Alter or forge any certificate of title to a motor vehicle or mobile home.

189

319.33(1)(c)

3rd

Procure or pass title on stolen vehicle.

190

319.33(4)

3rd

With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

191

327.35(2)(b)

3rd

Felony BUI.

192

328.05(2)

3rd

Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

193

328.07(4)

3rd

Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

36-00641A-23

2023232__

194

376.302 (5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

195

379.2431 (1) (e) 5. 3rd Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

196

379.2431 (1) (e) 6. 3rd Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.

197

379.2431 (1) (e) 7. 3rd Soliciting to commit or conspiring to commit a violation of the Marine

36-00641A-23

2023232__

Turtle Protection Act.

198

400.9935 (4) (a)
or (b)

3rd

Operating a clinic, or offering services requiring licensure, without a license.

199

400.9935 (4) (e)

3rd

Filing a false license application or other required information or failing to report information.

200

440.1051 (3)

3rd

False report of workers' compensation fraud or retaliation for making such a report.

201

501.001 (2) (b)

2nd

Tampers with a consumer product or the container using materially false/misleading information.

202

624.401 (4) (a)

3rd

Transacting insurance without a certificate of authority.

203

624.401 (4) (b) 1.

3rd

Transacting insurance

36-00641A-23

2023232__

without a certificate of
 authority; premium
 collected less than
 \$20,000.

204

626.902 (1) (a) &
 (b)

3rd

Representing an
 unauthorized insurer.

205

697.08

3rd

Equity skimming.

206

790.15 (3)

3rd

Person directs another to
 discharge firearm from a
 vehicle.

207

806.10 (1)

3rd

Maliciously injure,
 destroy, or interfere with
 vehicles or equipment used
 in firefighting.

208

806.10 (2)

3rd

Interferes with or assaults
 firefighter in performance
 of duty.

209

810.09 (2) (c)

3rd

Trespass on property other
 than structure or
 conveyance armed with
 firearm or dangerous
 weapon.

210

36-00641A-23 2023232__

211	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
212	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
213	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
214	812.081 (2)	3rd	Theft of a trade secret.
215	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
216	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
217	817.233	3rd	Burning to defraud insurer.
218	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
	817.234 (11) (a)	3rd	Insurance fraud; property

36-00641A-23

2023232__

value less than \$20,000.

219

817.236

3rd

Filing a false motor vehicle insurance application.

220

817.2361

3rd

Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

221

817.413 (2)

3rd

Sale of used goods of \$1,000 or more as new.

222

817.49 (2) (b) 1.

3rd

Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.

223

817.5695 (3) (c)

3rd

Exploiting a person 65 years of age or older and funds, assets, or property is valued at less than \$10,000.

224

831.28 (2) (a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a

36-00641A-23

2023232__

counterfeit payment
instrument with intent to
defraud.

225

831.29

2nd

Possession of instruments
for counterfeiting driver
licenses or identification
cards.

226

836.13(2)

3rd

Person who promotes an
altered sexual depiction of
an identifiable person
without consent.

227

838.021(3)(b)

3rd

Threatens unlawful harm to
public servant.

228

843.19

2nd

Injure, disable, or kill
police, fire, or SAR canine
or police horse.

229

860.15(3)

3rd

Overcharging for repairs
and parts.

230

870.01(2)

3rd

Riot.

231

870.01(4)

3rd

Inciting a riot.

232

893.13(1)(a)2.

3rd

Sell, manufacture, or

36-00641A-23

2023232__

deliver cannabis (or other
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4)
drugs).

233

893.13(1)(d)2.

2nd

Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of university.

234

893.13(1)(f)2.

2nd

Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of public housing
facility.

235

893.13(4)(c)

3rd

Use or hire of minor;
deliver to minor other

36-00641A-23

2023232__

controlled substances.

236

893.13(6)(a)

3rd

Possession of any controlled substance other than felony possession of cannabis.

237

893.13(7)(a)8.

3rd

Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

238

893.13(7)(a)9.

3rd

Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

239

893.13(7)(a)10.

3rd

Affix false or forged label to package of controlled substance.

240

893.13(7)(a)11.

3rd

Furnish false or fraudulent material information on any document or record required by chapter 893.

241

893.13(8)(a)1.

3rd

Knowingly assist a patient, other person, or owner of

36-00641A-23

2023232__

an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

242

893.13(8)(a)2.

3rd

Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

243

893.13(8)(a)3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

244

893.13(8)(a)4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

245

36-00641A-23 2023232__

246	918.13 (1)	3rd	Tampering with or fabricating physical evidence.
247	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.
248	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
249	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
250	(e) LEVEL 5		
251	Florida Statute	Felony Degree	Description
252	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
253	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.

36-00641A-23

2023232__

254

316.80 (2)

2nd

Unlawful conveyance of fuel; obtaining fuel fraudulently.

255

322.34 (6)

3rd

Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

256

327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

257

379.365 (2) (c) 1.

3rd

Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates;

36-00641A-23

2023232__

making, altering,
 forging, counterfeiting,
 or reproducing stone
 crab trap tags;
 possession of forged,
 counterfeit, or
 imitation stone crab
 trap tags; and engaging
 in the commercial
 harvest of stone crabs
 while license is
 suspended or revoked.

258

379.367(4)

3rd

Willful molestation of a
 commercial harvester's
 spiny lobster trap,
 line, or buoy.

259

379.407(5)(b)3.

3rd

Possession of 100 or
 more undersized spiny
 lobsters.

260

381.0041(11)(b)

3rd

Donate blood, plasma, or
 organs knowing HIV
 positive.

261

440.10(1)(g)

2nd

Failure to obtain
 workers' compensation
 coverage.

36-00641A-23

2023232__

262

440.105 (5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

263

440.381 (2) 3rd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

264

624.401 (4) (b) 2. 2nd Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

265

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

266

790.01 (2) 3rd Carrying a concealed firearm.

267

790.162 2nd Threat to throw or

36-00641A-23

2023232__

discharge destructive
device.

268

790.163 (1)

2nd

False report of bomb,
explosive, weapon of
mass destruction, or use
of firearms in violent
manner.

269

790.221 (1)

2nd

Possession of short-
barreled shotgun or
machine gun.

270

790.23

2nd

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

271

796.05 (1)

2nd

Live on earnings of a
prostitute; 1st offense.

272

800.04 (6) (c)

3rd

Lewd or lascivious
conduct; offender less
than 18 years of age.

273

800.04 (7) (b)

2nd

Lewd or lascivious
exhibition; offender 18
years of age or older.

274

36-00641A-23

2023232__

275	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
276	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
277	812.015 (8) (a) & (c) - (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
278	812.015 (8) (f)	3rd	Retail theft; multiple thefts within specified period.
279	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
280	812.081 (3)	2nd	Trafficking in trade secrets.
281	812.131 (2) (b)	3rd	Robbery by sudden snatching.
	812.16 (2)	3rd	Owning, operating, or

36-00641A-23

2023232__

conducting a chop shop.

282

817.034 (4) (a) 2.

2nd

Communications fraud,
value \$20,000 to
\$50,000.

283

817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

284

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.

285

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

36-00641A-23

2023232__

information of 10 or more persons.

286

817.5695 (3) (b)

2nd

Exploiting a person 65 years of age or older and funds, assets, or property is valued at \$10,000 or more, but less than \$50,000.

287

817.611 (2) (a)

2nd

Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

288

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

289

825.1025 (4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

290

827.071 (4)

2nd

Possess with intent to promote any photographic

36-00641A-23

2023232__

material, motion
 picture, etc., which
 includes child
 pornography.

291

827.071 (5)

3rd

Possess, control, or
 intentionally view any
 photographic material,
 motion picture, etc.,
 which includes child
 pornography.

292

828.12 (2)

3rd

Tortures any animal with
 intent to inflict
 intense pain, serious
 physical injury, or
 death.

293

836.14 (4)

2nd

Person who willfully
 promotes for financial
 gain a sexually explicit
 image of an identifiable
 person without consent.

294

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.

36-00641A-23

2023232__

295

843.01 3rd Resist officer with violence to person; resist arrest with violence.

296

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

297

847.0137 (2) & (3) 3rd Transmission of pornography by electronic device or equipment.

298

847.0138 (2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

299

874.05 (1) (b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

300

874.05 (2) (a) 2nd Encouraging or recruiting person under

36-00641A-23

2023232__

13 years of age to join
a criminal gang.

301

893.13(1)(a)1.

2nd

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1)(a),
(1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)5.
drugs).

302

893.13(1)(c)2.

2nd

Sell, manufacture, or
deliver cannabis (or
other s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10.,
(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.

303

893.13(1)(d)1.

1st

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1)(a),

36-00641A-23

2023232__

(1) (b), (1) (d), (2) (a),
 (2) (b), or (2) (c) 5.
 drugs) within 1,000 feet
 of university.

304

893.13 (1) (e) 2.

2nd

Sell, manufacture, or
 deliver cannabis or
 other drug prohibited
 under s. 893.03 (1) (c),
 (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 6.,
 (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (2) (c) 10.,
 (3), or (4) within 1,000
 feet of property used
 for religious services
 or a specified business
 site.

305

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) 5. drugs) within
 1,000 feet of public
 housing facility.

306

893.13 (4) (b)

2nd

Use or hire of minor;

36-00641A-23

2023232__

deliver to minor other
controlled substance.

307

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

308

309

Section 4. This act shall take effect October 1, 2023.