

1 A bill to be entitled
 2 An act relating to communications fraud; amending s.
 3 817.034, F.S.; revising the definition of "scheme to
 4 defraud"; providing for reclassification of certain
 5 offenses when committed against persons 65 years of
 6 age or older, against minors, or against persons with
 7 mental and physical disabilities; providing for civil
 8 actions for damages by persons whose image or likeness
 9 was used in a scheme to defraud without their consent;
 10 providing an effective date.

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

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14 Section 1. Paragraph (d) of subsection (3) and subsection
 15 (4) of section 817.034, Florida Statutes, are amended to read:

16 817.034 Florida Communications Fraud Act.—

17 (3) DEFINITIONS.—As used in this section, the term:

18 (d) "Scheme to defraud" means a systematic, ongoing course
 19 of conduct with intent to defraud one or more persons, or with
 20 intent to obtain property from one or more persons by false or
 21 fraudulent pretenses, representations, endorsements of
 22 nonconsenting parties, or promises or willful misrepresentations
 23 of a future act.

24 (4) OFFENSES.—

25 (a) Any person who engages in a scheme to defraud and

26 obtains property thereby commits ~~is guilty of~~ organized fraud,
27 punishable as follows:

28 1. If the amount of property obtained has an aggregate
29 value of \$50,000 or more, the person commits ~~violator is guilty~~
30 ~~of~~ a felony of the first degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084.

32 2. If the amount of property obtained has an aggregate
33 value of \$20,000 or more, but less than \$50,000, the person
34 commits ~~violator is guilty of~~ a felony of the second degree,
35 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

36 3. If the amount of property obtained has an aggregate
37 value of less than \$20,000, the person commits ~~violator is~~
38 ~~guilty of~~ a felony of the third degree, punishable as provided
39 in s. 775.082, s. 775.083, or s. 775.084.

40 (b) Any person who engages in a scheme to defraud and, in
41 furtherance of that scheme, communicates with any person with
42 intent to obtain property from that person commits ~~is guilty~~,
43 for each such act of communication, ~~of~~ communications fraud,
44 punishable as follows:

45 1. If the value of property obtained or endeavored to be
46 obtained by the communication is valued at \$300 or more, the
47 person commits ~~violator is guilty of~~ a third degree felony,
48 punishable as set forth in s. 775.082, s. 775.083, or s.
49 775.084.

50 2. If the value of the property obtained or endeavored to

51 | be obtained by the communication is valued at less than \$300,
52 | the person commits ~~violation~~ ~~is guilty of~~ a misdemeanor of the
53 | first degree, punishable as set forth in s. 775.082 or s.
54 | 775.083.

55 | (c) The penalty for committing an offense specified in
56 | paragraph (a) or paragraph (b) against a person age 65 years or
57 | older, against a minor, or against a person with a mental or
58 | physical disability, as defined in s. 775.0863(1)(b), shall be
59 | reclassified as follows:

60 | 1. A misdemeanor of the first degree is reclassified to a
61 | felony of the third degree.

62 | 2. A felony of the third degree is reclassified to a
63 | felony of the second degree.

64 | 3. A felony of the second degree is reclassified to a
65 | felony of the first degree.

66 | 4. A felony of the first degree is reclassified to a life
67 | felony.

68 | (d) A person whose image or likeness was used without his
69 | or her consent in a scheme to defraud may file a civil action in
70 | a court of competent jurisdiction to recover damages caused by
71 | the use of his or her image or likeness. The remedies provided
72 | for in this paragraph shall be in addition to and not in
73 | limitation of the remedies available to any person under the
74 | common law or any other law.

75 | (e)-(e) Notwithstanding any contrary provisions of law,

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76 separate judgments and sentences for organized fraud under
77 paragraph (a) and for each offense of communications fraud under
78 paragraph (b) may be imposed when all such offenses involve the
79 same scheme to defraud.

80 (f)~~(d)~~ Notwithstanding any other ~~provision of~~ law, a
81 criminal action or civil action or proceeding under this section
82 may be commenced at any time within 5 years after the cause of
83 action accrues; however, in a criminal proceeding under this
84 section, the period of limitation does not run during any time
85 when the defendant is continuously absent from this ~~the~~ state or
86 is without a reasonably ascertainable place of abode or work
87 within this ~~the~~ state, but in no case shall this extend the
88 period of limitation otherwise applicable by more than 1 year.

89 Section 2. This act shall take effect October 1, 2024.