

By Senator Martin

33-01197B-24

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1 A bill to be entitled
2 An act relating to schemes to defraud; amending s.
3 817.034, F.S.; revising the definition of the term
4 "scheme to defraud"; providing for the
5 reclassification of certain scheme-to-defraud offenses
6 committed against persons 65 years of age or older or
7 persons with certain disabilities; authorizing a
8 person whose image or likeness is used without his or
9 her consent in a scheme to defraud to file a civil
10 action for damages; making technical changes;
11 providing an effective date.

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

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15 Section 1. Paragraph (d) of subsection (3) and subsection
16 (4) of section 817.034, Florida Statutes, are amended to read:
17 817.034 Florida Communications Fraud Act.—

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

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

25 (4) OFFENSES.—

26 (a) Any person who engages in a scheme to defraud and
27 obtains property thereby commits ~~is guilty of~~ organized fraud,
28 punishable as follows:

29 1. If the amount of property obtained has an aggregate

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30 value of \$50,000 or more, the person commits ~~violator is guilty~~
31 ~~of~~ a felony of the first degree, punishable as provided in s.
32 775.082, s. 775.083, or s. 775.084.

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

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

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

46 1. If the value of property obtained or endeavored to be
47 obtained by the communication is valued at \$300 or more, the
48 person commits ~~violator is guilty of~~ a third degree felony,
49 punishable as set forth in s. 775.082, s. 775.083, or s.
50 775.084.

51 2. If the value of the property obtained or endeavored to
52 be obtained by the communication is valued at less than \$300,
53 the person commits ~~violator is guilty of~~ a misdemeanor of the
54 first degree, punishable as set forth in s. 775.082 or s.
55 775.083.

56 (c) The penalty for committing an offense specified in
57 paragraph (a) or paragraph (b) against a person 65 years of age
58 or older or against a person with a mental or physical

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59 disability as defined in s. 775.0863 shall be reclassified as
60 follows:

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

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

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

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

69 (d) A person whose image or likeness is used without his or
70 her consent in a scheme to defraud may file a civil action in a
71 court of competent jurisdiction to recover damages caused by the
72 use of his or her image or likeness.

73 (e) Notwithstanding any contrary provisions of law,
74 separate judgments and sentences for organized fraud under
75 paragraph (a) and for each offense of communications fraud under
76 paragraph (b) may be imposed when all such offenses involve the
77 same scheme to defraud.

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

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