

Bill No. SB 540

Amendment No. Barcode 852020

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Burt moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 775.0844, Florida Statutes, is created to read:

775.0844 White Collar Crime Victim Protection Act.--

(1) This section may be cited as the "White Collar Crime Victim Protection Act."

(2) Due to the frequency with which victims, particularly elderly victims, are deceived and cheated by criminals who commit nonviolent frauds and swindles, frequently through the use of the Internet and other electronic technology and frequently causing the loss of substantial amounts of property, it is the intent of the Legislature to enhance the sanctions imposed for nonviolent frauds and swindles, protect the public's property, and assist in prosecuting white collar criminals.

(3) As used in this section, "white collar crime"

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1 means:

2 (a) The commission of, or a conspiracy to commit, any
3 felony offense specified in:

4 1. Chapter 560, relating to the Money Transmitters'
5 Code.

6 2. Chapter 812, relating to theft, robbery, and
7 related crimes.

8 3. Chapter 815, relating to computer-related crimes.

9 4. Chapter 817, relating to fraudulent practices.

10 5. Chapter 825, relating to abuse, neglect, and
11 exploitation of elderly persons and disabled adults.

12 6. Chapter 831, relating to forgery and
13 counterfeiting.

14 7. Chapter 832, relating to the issuance of worthless
15 checks and drafts.

16 8. Chapter 838, relating to bribery and misuse of
17 public office.

18 9. Chapter 839, relating to offenses by public
19 officers and employees.

20 10. Chapter 895, relating to offenses concerning
21 racketeering and illegal debts.

22 11. Chapter 896, relating to offenses related to
23 financial transactions.

24 (b) A felony offense that is committed with intent to
25 defraud or that involves a conspiracy to defraud.

26 (c) A felony offense that is committed with intent to
27 temporarily or permanently deprive a person of his or her
28 property or that involves a conspiracy to temporarily or
29 permanently deprive a person of his or her property.

30 (d) A felony offense that involves or results in the
31 commission of fraud or deceit upon a person or that involves a

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1 conspiracy to commit fraud or deceit upon a person.

2 (4) As used in this section, "aggravated white collar
3 crime" means engaging in at least two white collar crimes that
4 have the same or similar intents, results, accomplices,
5 victims, or methods of commission, or that are otherwise
6 interrelated by distinguishing characteristics and are not
7 isolated incidents, provided that at least one of such crimes
8 occurred after the effective date of this act.

9 (5) Any person who commits an aggravated white collar
10 crime as defined in this section and in so doing either:

11 (a) Victimizes 10 or more elderly persons, as defined
12 in s. 825.101(5);

13 (b) Victimizes 20 or more persons, as defined in s.
14 1.01; or

15 (c) Victimizes the State of Florida, any state agency,
16 any of the state's political subdivisions, or any agency of
17 the state's political subdivisions,

18
19 and thereby obtains or attempts to obtain \$50,000 or more,
20 commits a felony of the first degree, punishable as provided
21 in s. 775.082, s. 775.083, or 775.084.

22 (6) Notwithstanding any other provision of chapter 921
23 or any other law, an aggravated white collar crime shall be
24 ranked within the offense severity ranking chart at offense
25 severity level 9.

26 (7) In addition to a sentence otherwise authorized by
27 law, a person convicted of an aggravated white collar crime
28 may pay a fine of \$500,000 or double the value of the
29 pecuniary gain or loss, whichever is greater.

30 (8) A person convicted of an aggravated white collar
31 crime under this section is liable for all court costs and

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1 shall pay restitution to each victim of the crime, regardless
2 of whether the victim is named in the information or
3 indictment. As used in this subsection, "victim" means a
4 person directly and proximately harmed as a result of the
5 commission of the offense for which restitution may be
6 ordered, including any person directly harmed by the
7 defendant's criminal conduct in the course of the commission
8 of the aggravated white collar crime. The court shall hold a
9 hearing to determine the identity of qualifying victims and
10 shall order the defendant to pay restitution based on his or
11 her ability to pay, in accordance with this section and s.
12 775.089.

13 (a) The court shall make the payment of restitution a
14 condition of any probation granted to the defendant by the
15 court. Notwithstanding any other law, the court may order
16 continued probation for a defendant convicted under this
17 section for up to 10 years or until full restitution is made
18 to the victim, whichever occurs earlier.

19 (b) The court retains jurisdiction to enforce its
20 order to pay fines or restitution. The court may initiate
21 proceedings against a defendant for a violation of probation
22 or for contempt of court if the defendant willfully fails to
23 comply with a lawful order of the court.

24 Section 2. Section 910.15, Florida Statutes, is
25 amended to read:

26 910.15 Theft and fraudulent practices concerning
27 communication systems.--

28 (1) A person charged with committing:

29 (a) A fraudulent practice in a manner in which it may
30 reasonably be assumed that a communication made to facilitate
31 the fraudulent practice, ~~solicitation~~ or a false or misleading

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1 representation, could or would be disseminated across
 2 jurisdictional lines; or

3 (b) A theft involving the use of the mail, telephone,
 4 newspaper, radio, television, or other means of communication,
 5
 6 may be tried in the county in which the dissemination
 7 originated, in which the dissemination was made, or in which
 8 any the last act necessary to consummate the offense occurred.

9 (2) For purposes of this section, if a communication
 10 is made by or made available through the use of the Internet,
 11 the communication was made in every county within the state.

12 Section 3. Paragraph (i) of subsection (3) of section
 13 921.0022, Florida Statutes, is amended to read:

14 921.0022 Criminal Punishment Code; offense severity
 15 ranking chart.--

16 (3) OFFENSE SEVERITY RANKING CHART

18 Florida	Felony	
19 Statute	Degree	Description
		(i) LEVEL 9
23 316.193		
24 (3)(c)3.b.	1st	DUI manslaughter; failing to 25 render aid or give information.
26 560.123(8)(b)3.	1st	Failure to report currency or 27 payment instruments totaling or 28 exceeding \$100,000 by money 29 transmitter.
30 560.125(5)(c)	1st	Money transmitter business by 31 unauthorized person, currency, or

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1			payment instruments totaling or
2			exceeding \$100,000.
3	655.50(10)(b)3.	1st	Failure to report financial
4			transactions totaling or
5			exceeding \$100,000 by financial
6			institution.
7	<u>755.0844</u>	<u>1st</u>	<u>Aggravated white collar crime.</u>
8	782.04(1)	1st	Attempt, conspire, or solicit to
9			commit premeditated murder.
10	782.04(3)	1st,PBL	Accomplice to murder in
11			connection with arson, sexual
12			battery, robbery, burglary, and
13			other specified felonies.
14	782.051(1)	1st	Attempted felony murder while
15			perpetrating or attempting to
16			perpetrate a felony enumerated in
17			s. 782.04(3).
18	782.07(2)	1st	Aggravated manslaughter of an
19			elderly person or disabled adult.
20	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
21			reward or as a shield or hostage.
22	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
23			or facilitate commission of any
24			felony.
25	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
26			interfere with performance of any
27			governmental or political
28			function.
29	787.02(3)(a)	1st	False imprisonment; child under
30			age 13; perpetrator also commits
31			aggravated child abuse, sexual

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1			battery, or lewd or lascivious
2			battery, molestation, conduct, or
3			exhibition.
4	790.161	1st	Attempted capital destructive
5			device offense.
6	790.166(2)	1st,PBL	Possessing, selling, using, or
7			attempting to use a weapon of
8			mass destruction.
9	794.011(2)	1st	Attempted sexual battery; victim
10			less than 12 years of age.
11	794.011(2)	Life	Sexual battery; offender younger
12			than 18 years and commits sexual
13			battery on a person less than 12
14			years.
15	794.011(4)	1st	Sexual battery; victim 12 years
16			or older, certain circumstances.
17	794.011(8)(b)	1st	Sexual battery; engage in sexual
18			conduct with minor 12 to 18 years
19			by person in familial or
20			custodial authority.
21	800.04(5)(b)	1st	Lewd or lascivious molestation;
22			victim less than 12 years;
23			offender 18 years or older.
24	812.13(2)(a)	1st,PBL	Robbery with firearm or other
25			deadly weapon.
26	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
27			deadly weapon.
28	827.03(2)	1st	Aggravated child abuse.
29	847.0145(1)	1st	Selling, or otherwise
30			transferring custody or control,
31			of a minor.

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1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning food, drink, medicine,
5			or water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28	893.135		
29	(1)(h)1.c.	1st	Trafficking in
30			gamma-hydroxybutyric acid (GHB),
31			10 kilograms or more.

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- 1 893.135
- 2 (1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
- 3 kilograms or more.
- 4 893.135
- 5 (1)(j)2.c. 1st Trafficking in Phenethylamines,
- 6 400 grams or more.
- 7 896.101(5)(c) 1st Money laundering, financial
- 8 instruments totaling or exceeding
- 9 \$100,000.
- 10 896.104(4)(a)3. 1st Structuring transactions to evade
- 11 reporting or registration
- 12 requirements, financial
- 13 transactions totaling or
- 14 exceeding \$100,000.

15 Section 4. If any provision of this act or its
 16 application to any person or circumstance is held invalid, the
 17 invalidity does not affect other provisions or applications of
 18 the act which can be given effect without the invalid
 19 provision or application, and to this end the provisions of
 20 this act are severable.

21 Section 5. This act shall take effect July 1, 2001.

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 23
 24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27
 28 and insert:

29 A bill to be entitled
 30 An act relating to criminal activities;
 31 creating the White Collar Crime Victim

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1 Protection Act; providing legislative intent;
2 providing definitions; specifying crimes and
3 acts that constitute a white collar crime;
4 providing that a person commits an aggravated
5 white collar crime if the white collar crime is
6 committed against certain persons or against a
7 state agency or political subdivision;
8 providing enhanced penalties for aggravated
9 white collar crimes; requiring that a defendant
10 convicted of an aggravated white collar crime
11 pay court costs and restitution; requiring that
12 payment of restitution be a condition of
13 probation; amending s. 910.15, F.S.; providing
14 that a communication made by or through the use
15 of the Internet was made in every county of the
16 state for purposes of prosecuting certain
17 fraudulent practices; amending s. 921.0022,
18 F.S.; adding certain aggravated white collar
19 crimes to the Criminal Punishment Code offense
20 severity ranking chart; providing for
21 severability; providing an effective date.

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