

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs and Space

BILL: SB 294

INTRODUCER: Senators Wright and Baxley

SUBJECT: Crimes Against Veterans

DATE: November 12, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Caldwell	MS	Favorable
2.	_____	_____	CJ	_____
3.	_____	_____	RC	_____

I. Summary:

SB 294 creates the Florida Veterans Protection Act.

This bill adds an act in which a person commits a white collar crime against 10 or more veterans as an aggravated white collar crime to the White Collar Crime Victim Protection Act. A person who engages in the crime added in the bill commits a first degree felony, and the crime is ranked within the offense severity ranking chart at offense severity level 9 for purposes of sentencing incarceration time. In addition to penalties for the commission of a first degree felony, a person who commits an aggravated white collar crime may be required to pay up to the greater of a \$500,000 fine or double the value of the pecuniary gain or loss, court costs, and restitution for each victim.

The Legislature’s Office of Economic and Demographic Research preliminarily estimates that the bill will have a positive insignificant prison bed impact.

The bill takes effect October 1, 2020.

II. Present Situation:

Veterans and Fraud

Nationally, Florida ranks first in fraud and fourth in identity theft.¹ Although veterans are less than 10 percent of the population in the United States, they represent one-third of the victims of

¹ In the state, the fraud rate is reported as perpetrated against 205 persons per every 100,000 persons. FTC Consumer Sentinel Network, Federal Trade Commission, *All Sentinel Reports, 2019 - 3rd Quarter*. Available at: <https://public.tableau.com/profile/federal.trade.commission#!/vizhome/TheBigViewAllSentinelReports/StatebyState> (last visited Nov. 7, 2019).

investment fraud.² Data provided from the Federal Trade Commission’s Consumer Sentinel program, the largest repository of fraud complaints in the nation, reveals an increase by 63 percent of complaints filed by military veterans over the past five years.³

In a 2017 survey conducted by the American Association of Retired Persons (AARP), researchers reported that of those surveyed, during the five years prior, twice as many veterans as non-veterans lost money to fraudulent scams (16 percent veterans to 8 percent non-veterans).⁴ And of those veterans who reported being contacted about a fraudulent scam, 78 percent report that the scam involved taking advantage of their status as a veteran.⁵

White Collar Crime Victims Protection Act

The White Collar Crime Victims Protection Act provides as an enhanced designation from a white collar crime to an aggravated white collar crime, a white collar crime in which a person obtains or attempts to obtain \$50,000 or more from:

- 10 or more elderly persons;
- 20 or more persons; or
- The state, a state agency, a political subdivision of the state, or an agency of a political subdivision of the state.⁶

The term “white collar crime” as used in the Act is:

- The commission of, or a conspiracy to commit, a felony offense included in various chapter laws related to fraud, theft, financial crime, abuse, and neglect;⁷
- A felony offense that is committed with intent to defraud or that involves a conspiracy to defraud;
- A felony offense committed with intent to temporarily or permanently deprive a person of property or a conspiracy to do so; or
- A felony offense involving or resulting in the commission of fraud or deceit on a person or a conspiracy to do so.⁸

An aggravated white collar crime is punishable as a first degree felony, which carries up to 5 years in prison and up to a \$5,000 fine, and is ranked within the offense severity ranking chart at

² AARP Washington State, *Under Fire: Military Veterans and Consumer Fraud in the United States* (Nov. 2017) Available at https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2017/military-veterans-consumer-fraud.doi.10.26419%252Fres.00182.001.pdf.

³³ *Id.* at 2.

⁴ *Id.* at 3.

⁵ “Examples include improving your VA loan, taking advantage of a little-known government program[s] for vets or paying for a back, knee, or arm brace because of one’s military service.” *Id.* at 3.

⁶ Section 775.0844(5), F.S.

⁷ Chapter laws referenced in the Act are Chapter 560 (Money Transmitters’ Code); 812 (theft, robbery, and related crimes); 815 (computer-related crimes); 817 (fraudulent practices); 825 (abuse, neglect, and exploitation of elderly persons and disabled adults); 831 (forgery and counterfeiting); 832 (issuance of worthless checks and drafts); 838 (bribery and misuse of public office); 839 (offenses by public officers and employees); 895 (offenses concerning racketeering and illegal debts); and 896 (offenses related to financial transactions). Crimes listed in these chapter laws are classified at various levels based on the offense, ranging from first degree misdemeanors to first degree felonies.

⁸ Section 775.0844(3), F.S.

offense severity level 9.⁹ A person convicted of an aggravated white collar crime may be required to pay an additional fine of up to the greater of a \$500,000 fine or double the value of the pecuniary gain or loss¹⁰; all court costs; and restitution to each victim, payable as a condition of probation.¹¹

Criminal Penalties and Scoring of Offenses

Criminal offenses are classified and sentenced as follows:

- A first degree misdemeanor is punishable by up to 1 year in jail and a \$1,000 fine.¹²
- A third degree felony is punishable by up to 5 years in prison and a \$5,000 fine.¹³
- A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine.¹⁴
- A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine.¹⁵

Scoresheets are used in criminal sentencing by a court to determine a period of incarceration for a defendant convicted of a felony other than for a capital felony. Points are added to the scoresheet based on a variety of factors, such as the level of victim injury, prior record of the defendant, and the offense level, as determined by placement of the offense on the offense severity ranking chart, set out in statute.¹⁶ The court must incorporate the chart ranking with the scoresheet in computing sentencing scores.¹⁷ The chart ranks offenses from level one to level ten, with level ten reserved for the most serious offenses.¹⁸

Statutory Definitions

A veteran as defined in s. 1.01, F.S., as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later was upgraded to a discharge under honorable conditions, regardless of a designation by the United States Department of Veterans Affairs as an other than honorable discharge or release.¹⁹

A person is defined in s. 1.01, F.S., as individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.²⁰

III. Effect of Proposed Changes:

This bill adds an act in which a person commits a white collar crime against 10 or more veterans as an aggravated white collar crime to the White Collar Crime Victim Protection Act. A person

⁹ Section 775.0844(5), F.S.

¹⁰ Section 775.0844(7), F.S.

¹¹ Section 775.0844(8), F.S.

¹² Section 775.082(4)(b), F.S.; s. 775.083(1)(d), F.S.

¹³ Section 775.082(3)(e), F.S.; s. 775.083(1)(c), F.S.

¹⁴ Section 775.082(3)(d), F.S.; s. 775.083(1)(b), F.S.

¹⁵ Section 775.082(3)(b)1., F.S.; s. 775.0831)(b), F.S.

¹⁶ Section 921.0022, F.S., provides the Offense Severity Ranking Chart.

¹⁷ Section 921.0022(1), F.S.

¹⁸ Section 921.0922(2), F.S.

¹⁹ Section 1.01(14), F.S.

²⁰ Section 1.01(3), F.S.

who engages in the crime added in the bill commits a first degree felony, and the crime is ranked within the offense severity ranking chart at offense severity level 9.

A person who commits an aggravated white collar crime against 10 or more veterans commits and is subject to the penalties authorized for a first degree felony, which is up to 5 years imprisonment and a \$5,000 fine. The person may also be required to pay a fine of up to the greater of a \$500,000 fine or double the value of the pecuniary gain or loss, court costs, and restitution for each victim, as is authorized in the White Collar Crime Victim Protection Act.

The term “veteran” is defined pursuant to the term “veteran” in s. 1.01, F.S.

The act is known as the Florida Veterans Protection Act.

The bill takes effect October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that this bill acts as a deterrent, fewer veterans may experience fraud and other forms of financial loss.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a positive insignificant prison bed impact, meaning an increase of 10 or fewer prison beds.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 775.0844 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ According to the Department of Corrections, in FY 18-19, the court sentenced two offenders to prison for violating s. 775.0844, F.S. Given the low level of offenders, this expansion should not have a significant impact on prison beds. *SB 294 - Crimes Against Veterans (Identical HB 167)*, Economic and Demographic Research (Oct. 23, 2019)(on file with the Senate Committee on Military and Veterans Affairs and Space).