

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 9 Protecting Consumers Against Pandemic-related Fraud

SPONSOR(S): Judiciary Committee, Pandemics & Public Emergencies Committee, Zika and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Pandemics & Public Emergencies Committee	16 Y, 0 N	Landry	Hall
2) Criminal Justice & Public Safety Subcommittee	17 Y, 0 N	Frost	Hall
3) Judiciary Committee	19 Y, 0 N, As CS	Frost	Kramer

SUMMARY ANALYSIS

A pandemic is an outbreak of disease over multiple parts of the world. Coronaviruses are a family of viruses that cause mild to fatal upper-respiratory tract illnesses. In 2019, a new strain of coronavirus emerged in China, and the disease caused by the virus, COVID-19, was declared a pandemic in March 2020. As countermeasures were implemented worldwide to stop the spread of COVID-19, the high demand for personal protective equipment (PPE) and COVID-19 vaccines led to scammers fraudulently advertising or selling counterfeit, substandard, or nonexistent PPE, vaccines, and other pandemic-related items.

PPE refers to protective clothing, helmets, gloves, face shields, goggles, facemasks, respirators, or other equipment designed to protect a person from injury or the spread of infection or illness. According to the Department of Homeland Security, more than 19,000 new websites selling PPE emerged as COVID-19 began to spread in the U.S., resulting in numerous reports of individuals and Internet sites taking orders, accepting payment, and failing to deliver products.

After the Food and Drug Administration approved two COVID-19 vaccines for emergency use in December 2020, the high demand for and limited availability of vaccines created an opportunity for scammers seeking to profit from desperate consumers. In Florida, Internet pages posing as the Pasco, Pinellas, and Martin County Health Departments charged money for fake vaccination appointments and scammers attempting to obtain credit card information intercepted calls made to the Lee County COVID-19 vaccine registration hotline.

While some vaccine or PPE scams may be criminalized under current law, other scams may not qualify as a crime and stopping the fraudulent activity may be difficult.

CS/HB 9 prohibits a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information via marketing or advertising materials, on a website, social media platform, or other media, or by telephone, text message, mail, or e-mail:

- Relating to the characteristics, authenticity, effectiveness, or availability of PPE with the intent to obtain or receive any money or other valuable consideration; or
- Regarding the availability of, or access to, a vaccine for COVID-19 or any other pandemic disease for the purpose of obtaining personal identification information or money or other valuable consideration.

A first offense of either crime is a third degree felony ranked at a level 7 on the offense severity ranking chart, while a second or subsequent offense is a second degree felony ranked at a level 8. The rankings provided by the bill subject an offender to a state prison sentence for any violation.

The bill authorizes Florida's Attorney General to seek an injunction to shut down websites or other media platforms disseminating false information about a vaccine for COVID-19 or any other pandemic disease or offering for sale or advertising PPE, when done with fraudulent intent.

The Criminal Justice Impact Conference reviewed a previous version of the bill and determined it may have a positive indeterminate impact on prison beds.

The bill is effective upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0009d.JDC

DATE: 3/1/2021

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

COVID-19

A pandemic is an outbreak of disease over multiple parts of the world. The most severe pandemic in recent history occurred in 1918 when a strain of the H1N1 influenza virus (H1N1) killed approximately 50 million people worldwide. Prior to 2019, the most recent pandemic occurred in 2009 when a new strain of H1N1 caused the “swine flu,” killing between 151,700 and 575,400 people worldwide during the first year it circulated.¹

Coronaviruses are a family of viruses that can cause upper-respiratory tract illnesses. In the past, small outbreaks of coronaviruses have occurred in the United States (U.S.), including an outbreak of the SARS coronavirus in November 2002, and the MERS coronavirus in September 2012. Most recently, in December 2019, an outbreak of a new strain of coronavirus, called Severe Acute Respiratory Syndrome Coronavirus 2, emerged in China.² The disease caused by this strain of the coronavirus, coronavirus disease 2019 (COVID-19), quickly spread worldwide. COVID-19 causes a wide range of symptoms including fever, cough, difficulty breathing, fatigue, loss of taste or smell, sore throat, and congestion or runny nose. Adults aged 65 years or older and people with preexisting underlying medical conditions, such as lung disease or diabetes, are at higher risk of developing more serious COVID-19 complications.³

The U.S. reported its first known case of COVID-19 in January 2020,⁴ and its first known death in February 2020.⁵ In March 2020, Florida reported both the state's first known COVID-19 case and death. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.⁶

In response to the COVID-19 pandemic, the Federal Government initiated “Operation Warp Speed” , launching a partnership among the Department of Health and Human Services, the Centers for Disease Control and Prevention (CDC), the National Institutes of Health, the Biomedical Advanced Research and Development Authority, and the Department of Defense, and began to strategize how to accelerate the development, manufacture, and distribution of COVID-19 countermeasures, including vaccines, therapeutics, and diagnostics.⁷

The CDC issued social distancing guidelines and instructions for wearing face coverings.⁸ In an effort to limit the spread of COVID-19, Florida's Governor DeSantis issued a series of executive orders⁹ declaring a public health emergency, shutting down non-essential businesses and schools, and

¹ Centers for Disease Control and Prevention, *Past Pandemics*, (Aug. 10, 2018) <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html> (last visited Mar. 1, 2021).

² National Institute of Allergy and Infectious Diseases, *Coronaviruses*, <https://www.niaid.nih.gov/diseases-conditions/coronaviruses> (last visited Mar. 1, 2021).

³ Centers for Disease Control and Prevention, *Symptoms of Coronavirus*, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (last visited Mar. 1, 2021).

⁴ Michelle L. Holshue, M.P.H., *First case of 2019 novel coronavirus in the United States*, *The New England Journal of Medicine* (Mar. 5, 2020), <https://www.nejm.org/doi/full/10.1056/NEJMoa2001191> (last visited Mar. 1, 2021).

⁵ Centers for Disease Control and Prevention, *Washington state reports first COVID-19 death*, <https://www.cdc.gov/media/releases/2020/s0229-COVID-19-first-death.html> (last visited Mar. 1, 2021).

⁶ World Health Organization, *WHO Director-General's opening remarks at the media briefing on COVID-19*, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last visited Mar. 1, 2021).

⁷ U.S. Department of Health & Human Services, *Fact Sheet: Explaining Operation Warp Speed*, <https://www.hhs.gov/coronavirus/explaining-operation-warp-speed/index.html> (last visited Mar. 1, 2021).

⁸ Centers for Disease Control and Prevention, *COVID-19, Social Distancing*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html> (last visited Mar. 1, 2021).

⁹ Florida Governor Ron DeSantis, *2020 Executive Orders*, <https://www.flgov.com/2020-executive-orders/> (last visited Mar. 1, 2021).

encouraging citizens to stay at home.¹⁰ Florida also listed PPE, sanitizing and disinfecting supplies, and COVID-19 test kits as essential commodities.¹¹

Personal Protective Equipment

Personal protective equipment (PPE) refers to protective clothing, helmets, gloves, face shields, goggles, facemasks, respirators, or other equipment designed to protect a person from injury or the spread of infection or illness. PPE is commonly used in health care settings to act as a barrier between infectious materials such as viral and bacterial contaminants and a person's skin, mouth, nose, or eyes, to block transmission of contaminants from blood, bodily fluids, or respiratory secretions. PPE is also used to protect patients who are at high risk for contracting infections brought in by visitors and healthcare workers.¹²

The COVID-19 pandemic increased the need for PPE for healthcare workers, patients, and the general public, resulting in PPE shortages nationwide. Some healthcare facilities were unable to access appropriate PPE, forcing them to identify alternative means to protect healthcare workers and provide adequate patient care.¹³

As suppliers rushed to produce PPE, federal authorities quickly identified attempts by individuals and organizations to fraudulently secure contracts for the delivery of PPE to private and public entities. In the last year, the Federal Bureau of Investigation, Department of Justice, and other law enforcement agencies pursued numerous cases of PPE fraud, including attempts to fraudulently secure large government or private procurement contracts with no intention of ever delivering the PPE or even having access to PPE.¹⁴ According to the Department of Homeland Security, more than 19,000 new websites selling PPE emerged as COVID-19 began to spread in the U.S., resulting in numerous reports of sites taking orders, accepting payment, and failing to deliver products.¹⁵ In April 2020, a Georgia man was arrested after making a series of fraudulent misrepresentations to secure \$750 million from the Department of Veterans Affairs for 125 million facemasks and other PPE, knowing he was unable to fulfill the orders.¹⁶ In January 2021, a Philadelphia man was arrested after fraudulently claiming to be a PPE provider and entering into agreements for over \$700 million to provide PPE to the City of New York.¹⁷

Florida's Attorney General (AG) has issued more than 30 consumer alerts warning Floridians about emerging COVID-19 related scams, including one in May 2020, urging Floridians to be on the lookout for fraudulent websites purporting to sell PPE.¹⁸ As of December 2020, the Better Business Bureau had received 96 complaints in Florida related to COVID-19.¹⁹

COVID-19 Vaccine

¹⁰ Fla. Exec. Order No. 20-51 (Mar. 1, 2020).

¹¹ Attorney General Ashley Moody, *COVID-19 Resources to Stay Informed*, <http://www.myfloridalegal.com/covid19> (last visited Mar. 1, 2021).

¹² U.S. Food and Drug Administration, *Personal Protective Equipment for Infection Control*, (Feb. 10, 2021) <https://www.fda.gov/medical-devices/general-hospital-devices-and-supplies/personal-protective-equipment-infection-control> (last visited Mar. 1, 2021).

¹³ COCA Now, *Strategies for Optimizing PPE Supplies During Shortages*, <https://emergency.cdc.gov/newsletters/coca/010521.htm> (last visited Mar. 1, 2021).

¹⁴ JDSUPRA, *With Latest COVID-19 Surge, Federal Officials Will Be Prepared to Combat PPE Fraud*, (Dec. 28, 2020) <https://www.jdsupra.com/legalnews/with-latest-covid-19-surge-federal-33450/> (last visited Mar. 1, 2021).

¹⁵ Office of Attorney General Ashley Moody, *Consumer Alert: New Websites Selling PPE Take Money, Don't Deliver Gear*, (May 14, 2020) <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DD06CDD09BE8587B85258568004EC790> (last visited Mar. 1, 2021).

¹⁶ Johnny Diaz and Aimee Ortiz, *Man Charged in Scheme to Sell 125 Million Nonexistent Masks*, *The New York Times*, (Apr. 11, 2020) <https://www.nytimes.com/2020/04/11/us/coronavirus-face-mask-fraud-christopher-parris.html> (last visited Mar. 1, 2021).

¹⁷ The U.S. Attorney's Office, District of New Jersey, *Philadelphia Man Arrested for COVID-19 PPE Fraud*, (Jan. 20, 2021) <https://www.justice.gov/usao-nj/pr/philadelphia-man-arrested-covid-19-ppe-fraud> (last visited Mar. 1, 2021).

¹⁸ *Supra* n. 15.

¹⁹ Merris Badcock, *COVID-19 Vaccine Scams at Center of New Crime-Fighting Effort*, (Dec. 7, 2020) <https://www.clickorlando.com/news/local/2020/12/08/covid-19-vaccine-scams-at-center-of-new-crime-fighting-effort/> (last visited Mar. 1, 2021).

In December 2020, the Food and Drug Administration granted Pfizer/BioNTech's and Moderna's COVID-19 vaccines Emergency Use Authorization.²⁰ Later that month, Governor DeSantis issued an executive order prioritizing vaccine recipients and authorizing vaccines to be administered only to priority populations, including:

- Long term care facility residents and staff;
- Persons 65 years of age or older;
- Health care personnel with direct patient contact; or
- Any person a hospital provider deems to be extremely vulnerable to COVID-19.²¹

Florida's strategy for administering the COVID-19 vaccine is continuously evolving. The Governor frequently announces updates as the state receives additional vaccine shipments and private and local distribution partnerships are established. Counties are authorized to implement local processes for administering the vaccine to people over the age of 65. Several counties have opted to use Eventbrite, a digital event management and ticketing website, which allows residents to register online for vaccine appointments.²²

Emerging scams have prompted Federal, state, and local authorities to issue warnings to the public to avoid fraudulent activity specifically related to the COVID-19 vaccine. The Federal Trade Commission published guidance on how to identify and avoid COVID-19 vaccine scams, warning consumers not to:

- Pay to put their name on a list to get the vaccine;
- Pay to gain early access to the vaccine; or
- Provide their social security number, bank account, or credit card number to get the vaccine.²³

In January 2021, scammers created fake Eventbrite accounts posing as the Pasco, Pinellas, and Martin County Health Departments offering to take payment in exchange for COVID-19 vaccination appointments,²⁴ and scammers attempting to obtain credit card information in return for a vaccine appointment intercepted calls made to the Lee County COVID-19 vaccine registration hotline.²⁵ Another scam involves Medicare fraudsters offering in-home vaccines for seniors and requiring Medicare card information to schedule the appointment. In response to these scams, the AG warned Florida consumers to avoid COVID-19 vaccine scams involving vaccine appointment calls, misleading webpages charging for vaccine appointments, and supposed in-home vaccinations through Medicare.²⁶

²⁰ U.S. Food and Drug Administration, *Pfizer-BioNTech COVID-19 Vaccine*, <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/pfizer-biontech-covid-19-vaccine> (last visited Mar. 1, 2021). Emergency use authorization is a mechanism for facilitating the availability and use of medical countermeasures, such as vaccines, during public health emergencies. See U.S. Food and Drug Administration, *Emergency Use Authorization for Vaccines Explained*, <https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained> (last visited Mar. 1, 2021).

²¹ Fla. Exec. Order No. 20-315 (Dec. 23, 2020).

²² Siladitya Ray, *Florida Seniors Duped Into Paying For Covid Vaccination Appointments On Eventbrite*, Forbes (Jan. 5, 2021), <https://www.forbes.com/sites/siladityaray/2021/01/05/florida-seniors-duped-into-paying-for-covid-vaccination-appointments-on-eventbrite/?sh=4ae21e2a4933> (last visited Mar. 1, 2021).

²³ Federal Trade Commission, *FTC Issues Consumer Tips for Avoiding COVID-19 Vaccine Scams*, <https://www.ftc.gov/news-events/press-releases/2020/12/ftc-issues-consumer-tips-avoiding-covid-19-vaccine-scams> (last visited Mar. 1, 2021).

²⁴ *Supra* note 22. Renay Rouse, *DOH-Martin-Use Caution Booking Online Appointments: news release* (Jan. 20, 2021), <http://martin.floridahealth.gov/newsroom/2021/01/covid19pr.html> (last visited Mar. 1, 2021).

²⁵ David Dorsey, *Scammers Intercept Unknown Number of Lee County COVID-19 Vaccine Hotline Calls*, News-Press (Jan. 6, 2021), <https://www.news-press.com/story/news/2021/01/06/scammers-intercept-unknown-number-lee-county-covid-19-vaccine-hotline-calls/6561370002/> (last visited Mar. 1, 2021).

²⁶ Attorney General Ashley Moody, *As Vaccines Outpace COVID-19 Infections, Be Wary of Vaccine-Related Scams*, (Feb. 15, 2021) <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/9DD25D025124078C8525867D0058C270> (last visited Mar. 1, 2021).

Current Crimes

Theft

A person commits theft when he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property;²⁷ or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.²⁸

Section 812.014, F.S., defines theft offenses and generally categorizes the offense level based on the value of the property stolen. Whether a theft is a misdemeanor or a felony may also depend on the offender's prior history of theft convictions or the type of property stolen. The offense levels for theft crimes based on property value range from a second degree misdemeanor to a first degree felony.²⁹

Fraudulent Practices

Chapter 817, F.S., prohibits fraudulent practices against individuals, corporations, and governments, including, in relevant part:

- Providing misleading advertisements³⁰ – a first or second degree misdemeanor;³¹
- Misleading solicitation of payments – a second degree misdemeanor fine;³²
- Obtaining property by fraudulent promise to furnish inside information³³ – a third degree felony;³⁴ and
- Unlawful possession of the personal identification information of another person³⁵ – a first degree misdemeanor or third degree felony.

Criminal Use of Personal Identification Information

Section 817.568, F.S., prohibits the criminal use of another person's personal identification information (PII).³⁶ PII is a name or number that may be used, alone or in conjunction with any other information, to identify a specific person. Section 817.568(1)(f), F.S., lists several examples of PII, including:

- A name;
- An address;
- Contact information, such as a telephone number or email address;
- A social security number;
- A date of birth;
- A mother's maiden name;
- An official state- or federally-issued driver license or identification number;
- Another identification number, such as an alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank, credit, or debit card number;
- Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- Unique electronic identification number, address, or routing code;
- Medical records;

²⁷ S. 812.014(1)(a), F.S.

²⁸ S. 812.014(1)(b), F.S.

²⁹ See ch. 812, F.S. A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

³⁰ Ss. 817.06 and 817.44, F.S.

³¹ S. 817.45, F.S. A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine and a second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. Ss. 775.082 and 775.083, F.S.

³² Ss. 817.061 and 775.083, F.S.

³³ S. 817.11, F.S.

³⁴ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082 and 775.083, F.S.

³⁵ S. 817.5685, F.S.

³⁶ S. 817.568, F.S.

- Telecommunication identifying information or access device; or
- Any other number or information that can be used to access a person's financial resources.

Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, another person's PII without that person's consent, commits the offense of fraudulent use of personal identification information, a third degree felony. However, the offense level and potential sanctions³⁷ increase for a violation, based on the dollar amount of the benefit or value received by an offender, the dollar amount of the injury or fraud perpetrated on a victim, the number of victims from which an offender takes PII, the age or status of the victim or victims, and the offender's relationship to the victim.³⁸

Florida does not specifically criminalize fraud relating to vaccine scams intended to obtain money or personal identification information from another person or fraudulently offering for sale or advertising PPE. While some COVID-19 or other pandemic scams may be prosecuted under current law, other fraudulent scams may not qualify as a crime and stopping the fraudulent activity may be difficult.

The Attorney General

Florida's AG is recognized as the chief law officer of the State and is the head of the Department of Legal Affairs (DLA).³⁹ DLA is responsible for providing all legal services required by any executive department unless otherwise provided by law. The Office of Statewide Prosecution (OSP) is a part of the DLA and is responsible for prosecuting crimes impacting two or more judicial circuits in the state. The OSP focuses mainly on complex, often large scale, organized criminal activity.⁴⁰

As chief legal officer of the State, the AG may bring actions on behalf of Floridians.⁴¹ The AG may also institute a civil action for a violation, or to prevent a violation, of certain activities. For example, the AG may institute a civil action to:

- Stop a violation of, or prevent a violation of, certain voter registration and ballot initiative laws;⁴²
- Seek declaratory or injunctive relief⁴³ against an entity violating federal immigration policies;⁴⁴
- Maintain an action for injunctive relief against any person or entity violating the Environmental Protection Act;⁴⁵ or
- Enjoin any person who has violated, is violating, or is otherwise likely to violate any portion of the Florida Deceptive and Unfair Trade Practices Act.⁴⁶

Effect of Proposed Changes

CS/HB 9 creates a crime to penalize a person who, with the intent to obtain or receive any money or other valuable consideration, knowingly and willfully makes a materially false or misleading statement or disseminates false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of PPE in any marketing or advertising material, on a website, social media platform, or other media, or by telephone, text message, mail, or e-mail.

The bill creates a separate crime to penalize a person who, for the purpose of obtaining another's PII or money or other valuable consideration, knowingly and willfully makes a materially false or misleading statement or disseminates false or misleading information via marketing or advertising materials, a website, social media platform, or other media, or telephone, text message, mail, or e-mail regarding the availability of, or access to, a vaccine for COVID-19 or any other pandemic disease.

³⁷ Several offenses include a mandatory minimum sentence. See ss. 817.568(2)(b)-(c), 817.568(3), and 817.568(8)(b)-(c), F.S.

³⁸ See s. 817.568(2)-(11), F.S.

³⁹ S. 16.01(2), F.S.

⁴⁰ Ss. 896.101 and 16.56(1)(a)13., F.S.

⁴¹ See e.g., s. 736.0110, F.S., relating to charitable trusts.

⁴² See ss. 97.0575(4) and 100.371(8), F.S.

⁴³ An injunction is a court order requiring a person to do or to stop doing a specific action. S. 60.05(2), F.S.

⁴⁴ S. 908.107(2), F.S.

⁴⁵ S. 403.412(2)(a), F.S.

⁴⁶ S. 501.201-213, F.S.

Under the bill:

- PPE means protective clothing or equipment including, but not limited to, face masks, face shields, gloves, goggles, gowns, helmets, or respirators designed to protect a person from infectious materials, communicable disease, or other illness.
- PII has the same meaning as provided in s. 817.568(1)(f), F.S., and generally includes any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including, but not limited to, information such as a person's name, postal or e-mail address, telephone number, social security number, date of birth, driver license or identification number, government passport number, bank account, credit, or debit card number, or medical records.

A first offense of either offering or advertising a vaccine with intent to defraud or offering for sale or advertising PPE with intent to defraud is a third degree felony ranked at a level 7 on the offense severity ranking chart,⁴⁷ while a second or subsequent offense is a second degree felony ranked at a level 8. The rankings subject an offender to a state prison sentence for any violation.

The bill authorizes any state attorney or the Statewide Prosecutor to prosecute a violation of either crime on behalf of the state.⁴⁸ Additionally, the bill authorizes the AG to initiate a civil action for an injunction, restraining order, or other appropriate relief if he or she reasonably believes either crime has been committed or to prevent the commission of either crime. Such authority gives the AG the ability to shut down websites and other media platforms disseminating false information about the:

- Characteristics, authenticity, effectiveness or availability of PPE for the purpose of obtaining money or other valuable consideration; or
- Availability of, or access to, a vaccine for COVID-19 or any other pandemic disease for the purpose of obtaining PII or money or other valuable consideration.

The bill ensures that an individual perpetrating a vaccine scam during a pandemic or fraudulently advertising or offering to sell PPE may be prosecuted, and his or her illegal activity stopped.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 817.418, F.S., relating to offering for sale or advertising personal protective equipment with intent to defraud.
- Section 2:** Creates s. 817.504, F.S., relating to offering or advertising a vaccine with intent to defraud.
- Section 2:** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 3:** Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁴⁷ Felony offenses subject to the Criminal Punishment Code are listed in a single offense severity ranking chart, which uses 10 offense levels to rank felonies from least severe (Level 1) to most severe (Level 10). Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute. A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense. The final calculation, following the scoresheet formula, determines the lowest permissible sentence that the trial court may impose, absent a valid reason for departure. S. 921.0022, F.S.

⁴⁸ A person charged with committing any crime facilitated by communication by mail, telephone, newspaper, radio, television, Internet, or any other means of electronic data communication may be charged and tried in the county in which: the dissemination originated; the dissemination was made; or any act necessary to consummate the offense occurred. Any communication made by or made available through the use of the Internet is considered to be made in every county within the state. S. 910.15, F.S.

2. Expenditures:

The Criminal Justice Impact Conference reviewed a previous version of the bill and determined it may have a positive indeterminate impact on prison beds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 1, 2020, the Judiciary Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS retained all of the bill's original provisions and added additional provisions which:

- Defined personal protective equipment (PPE) as protective clothing or equipment including, but not limited to, face masks, face shields, gloves, goggles, gowns, helmets, or respirators designed to protect a person from infectious materials, communicable disease, or other illness.
- Prohibited a person from offering for sale or advertising PPE with the intent to obtain money or other valuable consideration as a third degree felony for a first offense and a second degree felony for a second or subsequent offense.
- Authorized any state attorney or the Statewide Prosecutor to prosecute a violation of the crime on behalf of the state.
- Authorized the AG to initiate a civil action for an injunction, restraining order, or other appropriate relief if he or she reasonably believes the crime has been committed or to prevent the commission of the crime.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.