

By the Committee on Criminal Justice; and Senator Garcia

591-02498-23

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1 A bill to be entitled
2 An act relating to the exploitation of vulnerable
3 persons; creating s. 817.5695, F.S.; defining terms;
4 specifying conditions under which a person commits
5 exploitation of a person 65 years of age or older;
6 providing criminal penalties for violations of the
7 act; specifying that not knowing the age of a victim
8 is not a defense to such crime; providing
9 circumstances under which the trial for a criminal
10 action arising from specified violations may be
11 advanced on the docket; authorizing persons who are in
12 imminent danger of exploitation to petition for an
13 injunction for protection; specifying applicable
14 penalties for violations of any such injunction;
15 amending s. 775.15, F.S.; providing time limitations
16 for commencing prosecution for violations of the act;
17 providing an exception for the time limitations for
18 commencing prosecution for certain felony violations
19 involving elderly persons or disabled adults if
20 certain conditions are met; amending ss. 825.1035 and
21 825.1036, F.S.; specifying that certain acts are
22 included in exploitation of a vulnerable adult;
23 amending s. 921.0022, F.S.; ranking certain offenses
24 created by this act on the offense severity ranking
25 chart of the Criminal Punishment Code; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

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30 Section 1. Section 817.5695, Florida Statutes, is created
31 to read:

32 817.5695 Exploitation of a person 65 years of age or
33 older.-

34 (1) As used in this section, the term:

35 (a) "Bribe" means any money or anything of value which is
36 provided, directly or indirectly, to a person who has a legal or
37 fiduciary relationship with a person 65 years of age or older,
38 for the purpose of improperly obtaining or rewarding favorable
39 treatment from the person who has the legal or fiduciary
40 relationship in connection with his or her work for the person
41 65 years of age or older.

42 (b) "Deception" means:

43 1. Misrepresenting or concealing a material fact relating
44 to:

45 a. Services rendered, disposition of property, or use of
46 property, when such services or property are intended to benefit
47 a person 65 years of age or older;

48 b. Terms of a contract, agreement, trust, will, or
49 testament entered into with a person 65 years of age or older;
50 or

51 c. An existing or preexisting condition of any property
52 involved in a contract, agreement, trust, will, or testament
53 entered into with a person 65 years of age or older; or

54 2. Using any misrepresentation, false pretense, or false
55 promise in order to induce, encourage, or solicit a person 65
56 years of age or older to enter into a contract, agreement,
57 trust, will, or testament.

58 (c) "Endeavor" means to attempt or to try.

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59 (d) "Fiduciary relationship" includes, but is not limited
60 to, a court-appointed or voluntary guardian, trustee, attorney,
61 or conservator.

62 (e) "Intimidation" means the communication by word or act
63 to a person 65 years of age or older that the person will be
64 deprived of food, nutrition, clothing, shelter, supervision,
65 medicine, medical services, money, or financial support or will
66 suffer physical violence.

67 (f) "Kickback" means money, credit, a fee, a commission, a
68 gift, a gratuity or other compensation, or anything of value
69 which is provided to a person in exchange for preferential
70 treatment for the receipt of goods or services.

71 (g) "Obtains or uses" means any manner of:

- 72 1. Taking or exercising control over property; or
73 2. Making any use, disposition, or transfer of property.

74 (h) "Property" means anything of value and includes, but is
75 not limited to:

76 1. Real property, including things growing on, affixed to,
77 or found in land.

78 2. Tangible or intangible personal property, including
79 intellectual property, rights, privileges, interests, and
80 claims.

81 3. Services.

82 (i) "Services" means anything of value resulting from a
83 person's physical or mental labor or skill, or from the use,
84 possession, or presence of property, and includes, but is not
85 limited to:

86 1. Repairs or improvements to property;

87 2. Professional services;

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88 3. Private, public, or governmental communication,
89 transportation, power, water, or sanitation services;

90 4. Lodging accommodations; or

91 5. Admissions to places of exhibition or entertainment.

92 (j) "Value" means value determined according to any of the
93 following:

94 1. The market value of the property at the time and place
95 of the offense, or, if the market value cannot be satisfactorily
96 ascertained, the value is the cost of replacing the property
97 within a reasonable time after the commission of the offense;

98 2. In the case of a written instrument, such as a check,
99 draft, or promissory note, which does not have a readily
100 ascertainable market value, the value is the amount due or
101 collectible. The value of any other instrument that creates,
102 releases, discharges, or otherwise affects any valuable legal
103 right, privilege, or obligation is the greatest amount of
104 economic loss that the owner of the instrument might reasonably
105 suffer by the diminishment or loss of the instrument;

106 3. The value of a trade secret that does not have a readily
107 ascertainable market value is any reasonable value representing
108 the damage to the owner suffered by reason of losing advantage
109 over those who do not know of or use the trade secret; or

110 4. If the value of the property cannot be ascertained, the
111 trier of fact may find the value to be not less than a certain
112 amount; if no such minimum value can be ascertained, the value
113 is an amount less than \$100.

114
115 Amounts of value of separate properties involved in exploitation
116 committed pursuant to one scheme or course of conduct, whether

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117 the exploitation involves the same person or several persons,
118 may be aggregated in determining the degree of the offense.

119 (2) A person commits exploitation of a person 65 years of
120 age or older if he or she:

121 (a) Obtains or uses, endeavors to obtain or use, or
122 conspires with another to obtain or use, through deception or
123 intimidation, the property of a person 65 years of age or older,
124 with the intent to temporarily or permanently:

125 1. Deprive that person of the use, benefit, or possession
126 of the property; or

127 2. Benefit someone other than the property owner;

128 (b) Obtains or uses, endeavors to obtain or use, or
129 conspires with another to obtain or use, through deception or
130 intimidation, the property of a person 65 years of age or older
131 through the intentional modification, alteration, or fraudulent
132 creation of a plan of distribution or disbursement expressed in
133 a will, trust instrument, or other testamentary devise of the
134 person 65 years of age or older; or

135 (c) Deprives, endeavors to deprive, or conspires with
136 another to deprive, with the intent to defraud and by means of
137 bribery or kickbacks, a person 65 years of age or older of his
138 or her intangible right to honest services provided by an
139 individual who has a legal or fiduciary relationship with such
140 person.

141 (3) A person who violates this section commits:

142 (a) A felony of the first degree, punishable as provided in
143 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
144 property involved in the exploitation of a person 65 years of
145 age or older is valued at \$50,000 or more.

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146 (b) A felony of the second degree, punishable as provided
147 in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets,
148 or property involved in the exploitation of a person 65 years of
149 age or older is valued at \$10,000 or more, but less than
150 \$50,000.

151 (c) A felony of the third degree, punishable as provided in
152 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
153 property involved in the exploitation of a person 65 years of
154 age or older is valued at less than \$10,000.

155 (4) It does not constitute a defense to a prosecution for
156 any violation of this section that the accused did not know the
157 age of the victim.

158 (5) In a criminal action resulting from a violation of this
159 section, the state may move the court to advance the trial on
160 the docket. The presiding judge, after consideration of the age
161 and health of the victim, may advance the trial on the docket.
162 The motion may be filed and served with the information or
163 charges at any time thereafter.

164 (6) Notwithstanding s. 825.1035(2), a person 65 years of
165 age or older who is in imminent danger of being exploited may
166 petition for an injunction for protection as provided under s.
167 825.1035. A violation of such injunction shall be handled in the
168 same manner, and such violation shall have the same penalties,
169 as provided in s. 825.1036.

170 Section 2. Subsection (10) of section 775.15, Florida
171 Statutes, is amended to read:

172 775.15 Time limitations; general time limitations;
173 exceptions.—

174 (10) (a) A prosecution for a felony violation of s.

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175 817.5695, s. 825.102, or s. 825.103 must be commenced within 5
176 years after it is committed.

177 (b) If the period prescribed in paragraph (a) has expired,
178 a prosecution may nevertheless be commenced for any offense, a
179 material element of which is either fraud or a breach of
180 fiduciary obligation, within 5 years after discovery of the
181 offense by an aggrieved party or by a person who has a legal
182 duty to represent an aggrieved party and who is not a party to
183 the offense.

184 Section 3. Subsection (1) of section 825.1035, Florida
185 Statutes, is amended to read:

186 825.1035 Injunction for protection against exploitation of
187 a vulnerable adult.—

188 (1) INJUNCTION CREATED.—There is created a cause of action
189 for an injunction for protection against exploitation of a
190 vulnerable adult. As used in this section, and in addition to
191 the definitions provided in this chapter, exploitation of a
192 vulnerable adult includes a person 65 years of age or older who
193 is or may be subject to exploitation as described in s.
194 817.5695.

195 Section 4. Subsection (1) of section 825.1036, Florida
196 Statutes, is amended to read:

197 825.1036 Violation of an injunction for protection against
198 exploitation of a vulnerable adult.—

199 (1) In the event of a violation of an injunction for
200 protection against exploitation of a vulnerable adult when the
201 person who violated such injunction has not been arrested, the
202 petitioner may contact the clerk of the circuit court of the
203 county in which the violation is alleged to have occurred. The

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204 clerk of the circuit court shall assist the petitioner in the
 205 preparation of an affidavit in support of the violation or
 206 direct the petitioner to the office operated by the court within
 207 the circuit which has been designated by the chief judge of the
 208 judicial circuit as the central intake point for injunction
 209 violations and where the petitioner can receive assistance in
 210 the preparation of the affidavit in support of the violation. As
 211 used in this section, and in addition to the definitions
 212 provided in this chapter, exploitation of a vulnerable adult
 213 includes a person 65 years of age or older who is or may be
 214 subject to exploitation as described in s. 817.5695.

215 Section 5. Paragraphs (d) and (f) of subsection (3) of
 216 section 921.0022, Florida Statutes, are amended to read:

217 921.0022 Criminal Punishment Code; offense severity ranking
 218 chart.—

219 (3) OFFENSE SEVERITY RANKING CHART

220 (d) LEVEL 4

221

Florida Statute	Felony Degree	Description
316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights

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activated.

223

499.0051 (1)

3rd

Failure to maintain or deliver transaction history, transaction information, or transaction statements.

224

499.0051 (5)

2nd

Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

225

517.07 (1)

3rd

Failure to register securities.

226

517.12 (1)

3rd

Failure of dealer, associated person, or issuer of securities to register.

227

784.07 (2) (b)

3rd

Battery of law enforcement officer, firefighter, etc.

228

784.074 (1) (c)

3rd

Battery of sexually violent predators facility staff.

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229

784.075 3rd Battery on detention or
commitment facility
staff.

230

784.078 3rd Battery of facility
employee by throwing,
tossing, or expelling
certain fluids or
materials.

231

784.08 (2) (c) 3rd Battery on a person 65
years of age or older.

232

784.081 (3) 3rd Battery on specified
official or employee.

233

784.082 (3) 3rd Battery by detained
person on visitor or
other detainee.

234

784.083 (3) 3rd Battery on code
inspector.

235

784.085 3rd Battery of child by
throwing, tossing,
projecting, or
expelling certain
fluids or materials.

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787.03 (1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

237

787.04 (2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

238

787.04 (3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

239

787.07 3rd Human smuggling.

240

790.115 (1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

241

790.115 (2) (b) 3rd Possessing electric weapon or device, destructive device, or

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other weapon on school property.

242

790.115 (2) (c)

3rd

Possessing firearm on school property.

243

794.051 (1)

3rd

Indecent, lewd, or lascivious touching of certain minors.

244

800.04 (7) (c)

3rd

Lewd or lascivious exhibition; offender less than 18 years.

245

806.135

2nd

Destroying or demolishing a memorial or historic property.

246

810.02 (4) (a)

3rd

Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

247

810.02 (4) (b)

3rd

Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

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810.06	3rd	Burglary; possession of tools.
810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; specified items.
812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
817.505 (4) (a)	3rd	Patient brokering.
817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

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256 817.568 (2) (a) 3rd Fraudulent use of
personal identification
information.

257 817.5695 (3) (c) 3rd Exploitation of person
65 years of age or
older, value less than
\$10,000.

258 817.625 (2) (a) 3rd Fraudulent use of
scanning device,
skimming device, or
reencoder.

259 817.625 (2) (c) 3rd Possess, sell, or
deliver skimming
device.

260 828.125 (1) 2nd Kill, maim, or cause
great bodily harm or
permanent breeding
disability to any
registered horse or
cattle.

836.14 (2) 3rd Person who commits
theft of a sexually
explicit image with
intent to promote it.

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836.14 (3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02 (1)	3rd	Perjury in official proceedings.
837.021 (1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.

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	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
269	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
270	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
271	870.01 (3)	2nd	Aggravated rioting.
272	870.01 (5)	2nd	Aggravated inciting a riot.
273	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
274	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a),

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(b), or (d), (2) (a),
 (2) (b), or (2) (c) 5.
 drugs).

275

914.14 (2)

3rd

Witnesses accepting
 bribes.

276

914.22 (1)

3rd

Force, threaten, etc.,
 witness, victim, or
 informant.

277

914.23 (2)

3rd

Retaliation against a
 witness, victim, or
 informant, no bodily
 injury.

278

916.1085
 (2) (c) 1.

3rd

Introduction of
 specified contraband
 into certain DCF
 facilities.

279

918.12

3rd

Tampering with jurors.

280

934.215

3rd

Use of two-way
 communications device
 to facilitate
 commission of a crime.

281

944.47 (1) (a) 6.

3rd

Introduction of

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contraband (cellular telephone or other portable communication device) into correctional institution.

282

951.22 (1) (h),
(j) & (k)

3rd

Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

283

284 (f) LEVEL 6

285

Florida
Statute

Felony
Degree

Description

286

316.027 (2) (b)

2nd

Leaving the scene of a crash involving serious bodily injury.

287

316.193 (2) (b)

3rd

Felony DUI, 4th or subsequent conviction.

288

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289 400.9935 (4) (c) 2nd Operating a clinic, or offering services requiring licensure, without a license.

290 499.0051 (2) 2nd Knowing forgery of transaction history, transaction information, or transaction statement.

291 499.0051 (3) 2nd Knowing purchase or receipt of prescription drug from unauthorized person.

292 499.0051 (4) 2nd Knowing sale or transfer of prescription drug to unauthorized person.

293 775.0875 (1) 3rd Taking firearm from law enforcement officer.

294 784.021 (1) (a) 3rd Aggravated assault; deadly weapon without intent to kill.

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295	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
296	784.041	3rd	Felony battery; domestic battery by strangulation.
297	784.048 (3)	3rd	Aggravated stalking; credible threat.
298	784.048 (5)	3rd	Aggravated stalking of person under 16.
299	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
300	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
301	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
	784.081 (2)	2nd	Aggravated assault on specified official or

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302

784.082 (2)

2nd

employee.

Aggravated assault by
detained person on
visitor or other
detainee.

303

784.083 (2)

2nd

Aggravated assault on
code inspector.

304

787.02 (2)

3rd

False imprisonment;
restraining with
purpose other than
those in s. 787.01.

305

790.115 (2) (d)

2nd

Discharging firearm or
weapon on school
property.

306

790.161 (2)

2nd

Make, possess, or
throw destructive
device with intent to
do bodily harm or
damage property.

307

790.164 (1)

2nd

False report
concerning bomb,
explosive, weapon of
mass destruction, act

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308

of arson or violence
to state property, or
use of firearms in
violent manner.

790.19

2nd

Shooting or throwing
deadly missiles into
dwellings, vessels, or
vehicles.

309

794.011 (8) (a)

3rd

Solicitation of minor
to participate in
sexual activity by
custodial adult.

310

794.05 (1)

2nd

Unlawful sexual
activity with
specified minor.

311

800.04 (5) (d)

3rd

Lewd or lascivious
molestation; victim 12
years of age or older
but less than 16 years
of age; offender less
than 18 years.

312

800.04 (6) (b)

2nd

Lewd or lascivious
conduct; offender 18
years of age or older.

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313

806.031 (2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

314

810.02 (3) (c) 2nd Burglary of occupied structure; unarmed; no assault or battery.

315

810.145 (8) (b) 2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.

316

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

317

812.014 (6) 2nd Theft; property stolen \$3,000 or more; coordination of others.

318

812.015 (9) (a) 2nd Retail theft; property stolen \$750 or more; second or subsequent

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319

812.015 (9) (b)

2nd

conviction.

Retail theft;
aggregated property
stolen within 30 days
is \$3,000 or more;
coordination of
others.

320

812.015 (9) (d)

2nd

Retail theft; multiple
thefts within
specified period.

321

812.13 (2) (c)

2nd

Robbery, no firearm or
other weapon (strong-
arm robbery).

322

817.4821 (5)

2nd

Possess cloning
paraphernalia with
intent to create
cloned cellular
telephones.

323

817.49 (2) (b) 2.

2nd

Willful making of a
false report of a
crime resulting in
death.

324

817.505 (4) (b)

2nd

Patient brokering; 10

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331

			or more patients.
	<u>817.5695 (3) (b)</u>	<u>2nd</u>	<u>Exploitation of person</u> <u>65 years of age or</u> <u>older, value more than</u> <u>\$10,000 but less than</u> <u>\$50,000.</u>
	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
	827.03 (2) (c)	3rd	Abuse of a child.

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332

827.03(2)(d) 3rd Neglect of a child.

333

827.071(2) & (3) 2nd Use or induce a child
in a sexual
performance, or
promote or direct such
performance.

334

828.126(3) 3rd Sexual activities
involving animals.

335

836.05 2nd Threats; extortion.

336

836.10 2nd Written or electronic
threats to kill, do
bodily injury, or
conduct a mass
shooting or an act of
terrorism.

337

843.12 3rd Aids or assists person
to escape.

847.011 3rd Distributing, offering
to distribute, or
possessing with intent
to distribute obscene
materials depicting
minors.

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338

847.012

3rd

Knowingly using a minor in the production of materials harmful to minors.

339

847.0135 (2)

3rd

Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

340

914.23

2nd

Retaliation against a witness, victim, or informant, with bodily injury.

341

918.13 (2) (b)

2nd

Tampering with or fabricating physical evidence relating to a capital felony.

342

944.35 (3) (a) 2.

3rd

Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community

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343

supervision, resulting
in great bodily harm.

344

944.40

2nd

Escapes.

345

944.46

3rd

Harboring, concealing,
aiding escaped
prisoners.

346

944.47(1)(a)5.

2nd

Introduction of
contraband (firearm,
weapon, or explosive)
into correctional
facility.

347

951.22(1)(i)

3rd

Firearm or weapon
introduced into county
detention facility.

348

Section 6. This act shall take effect October 1, 2023.