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A bill to be entitled

An act relating to communications fraud; amending s. 817.034, F.S.; revising the definition of "scheme to defraud"; providing for reclassification of certain offenses when committed against persons 65 years of age or older, against minors, or against persons with mental and physical disabilities; providing for civil actions for damages by persons whose image or likeness was used in a scheme to defraud without their consent; providing an effective date.

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

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

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

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

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(4) OFFENSES.—

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(a) Any person who engages in a scheme to defraud and

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obtains property thereby <u>commits</u> is guilty of organized fraud, punishable as follows:

- 1. If the amount of property obtained has an aggregate value of \$50,000 or more, the violator commits is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- 2. If the amount of property obtained has an aggregate value of \$20,000 or more, but less than \$50,000, the violator commits is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- 3. If the amount of property obtained has an aggregate value of less than \$20,000, the violator commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (b) Any person who engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with intent to obtain property from that person commits is guilty, for each such act of communication, of communications fraud, punishable as follows:
- 1. If the value of property obtained or endeavored to be obtained by the communication is valued at \$300 or more, the violator <u>commits</u> is guilty of a third degree felony, punishable as set forth in s. 775.082, s. 775.083, or s. 775.084.
- 2. If the value of the property obtained or endeavored to be obtained by the communication is valued at less than \$300,

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the violator <u>commits</u> is guilty of a misdemeanor of the first degree, punishable as set forth in s. 775.082 or s. 775.083.

- (c) The penalty for the commission of any offense in paragraphs (a) and (b) against a person aged 65 years or older, against a minor, or against a person with a mental or physical disability, as defined in s. 775.0863(1)(b), shall be reclassified in a manner as provided in s. 775.085 or s. 775.0863, respectively.
- (d) A person whose image or likeness was used without consent in a scheme to defraud is authorized to file a civil action in a court of competent jurisdiction to recover an amount for damages caused by the use of their image or likeness.
- (e)(e) Notwithstanding any contrary provisions of law, separate judgments and sentences for organized fraud under paragraph (a) and for each offense of communications fraud under paragraph (b) may be imposed when all such offenses involve the same scheme to defraud.
- (f)(d) Notwithstanding any other provision of law, a criminal action or civil action or proceeding under this section may be commenced at any time within 5 years after the cause of action accrues; however, in a criminal proceeding under this section, the period of limitation does not run during any time when the defendant is continuously absent from the state or is without a reasonably ascertainable place of abode or work within the state, but in no case shall this extend the period of

76 limitation otherwise applicable by more than 1 year.
77 Section 2. This act shall take effect July 1, 2024.

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