

Senate Bill No. 540

An act relating to criminal activities; creating the White Collar Crime Victim Protection Act; providing legislative intent; providing definitions; specifying crimes and acts that constitute a white collar crime; providing that a person commits an aggravated white collar crime if the white collar crime is committed against certain persons or against a state agency or political subdivision; providing enhanced penalties for aggravated white collar crimes; requiring that a defendant convicted of an aggravated white collar crime pay court costs and restitution; requiring that payment of restitution be a condition of probation; amending s. 910.15, F.S.; providing that a communication made by or through the use of the Internet was made in every county of the state for purposes of prosecuting certain fraudulent practices; amending s. 921.0022, F.S.; adding certain aggravated white collar crimes to the Criminal Punishment Code offense severity ranking chart; providing for severability; providing an effective date.

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

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” means:

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

1. Chapter 560, relating to the Money Transmitters’ Code.
2. Chapter 812, relating to theft, robbery, and related crimes.
3. Chapter 815, relating to computer-related crimes.
4. Chapter 817, relating to fraudulent practices.
5. Chapter 825, relating to abuse, neglect, and exploitation of elderly persons and disabled adults.

6. Chapter 831, relating to forgery and counterfeiting.
7. Chapter 832, relating to the issuance of worthless checks and drafts.
8. Chapter 838, relating to bribery and misuse of public office.
9. Chapter 839, relating to offenses by public officers and employees.
10. Chapter 895, relating to offenses concerning racketeering and illegal debts.
11. Chapter 896, relating to offenses related to financial transactions.

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

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

(d) A felony offense that involves or results in the commission of fraud or deceit upon a person or that involves a conspiracy to commit fraud or deceit upon a person.

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

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

- (a) Victimizes 10 or more elderly persons, as defined in s. 825.101(5);
- (b) Victimizes 20 or more persons, as defined in s. 1.01; or
- (c) Victimizes the State of Florida, any state agency, any of the state's political subdivisions, or any agency of the state's political subdivisions,

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

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

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

(8) A person convicted of an aggravated white collar crime under this section is liable for all court costs and shall pay restitution to each victim

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

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

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

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

910.15 Theft and fraudulent practices concerning communication systems.—

(1) A person charged with committing:

(a) A fraudulent practice in a manner in which it may reasonably be assumed that a ~~solicitation~~ communication made to facilitate the fraudulent practice, or a false or misleading representation, could or would be disseminated across jurisdictional lines; or

(b) A theft involving the use of the mail, telephone, newspaper, radio, television, or other means of communication,

may be tried in the county in which the dissemination originated, in which the dissemination was made, or in which any ~~the last~~ act necessary to consummate the offense occurred.

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

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

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
<u>755.0844</u>	<u>1st</u>	<u>Aggravated white collar crime.</u>
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

Florida Statute	Felony Degree	Description
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

Florida Statute	Felony Degree	Description
893.135 (1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(j)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

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

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

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.