

28 representations, promises, or material omissions, and who communicates directly or indirectly
29 with any person by any means for the purpose of executing or concealing the scheme or artifice
30 is guilty of:

31 (a) a class B misdemeanor when the value of the property, money, or thing obtained or
32 sought to be obtained is less than \$300;

33 (b) a class A misdemeanor when the value of the property, money, or thing obtained or
34 sought to be obtained is or exceeds \$300 but is less than \$1,000;

35 (c) a third degree felony when the value of the property, money, or thing obtained or
36 sought to be obtained is or exceeds \$1,000 but is less than \$5,000;

37 (d) a second degree felony when the value of the property, money, or thing obtained or
38 sought to be obtained is or exceeds \$5,000; [~~and~~]

39 (e) a second degree felony when the object of the scheme or artifice to defraud is other
40 than the obtaining of something of monetary value[-]; and

41 (f) a second degree felony when the object or purpose of the scheme or artifice to
42 defraud is the obtaining of sensitive personal identifying information, regardless of the value.

43 (2) The determination of the degree of any offense under Subsection (1) shall be
44 measured by the total value of all property, money, or things obtained or sought to be obtained
45 by the scheme or artifice described in Subsection (1) except as provided in Subsection (1)(e).

46 (3) Reliance on the part of any person is not a necessary element of the offense
47 described in Subsection (1).

48 (4) An intent on the part of the perpetrator of any offense described in Subsection (1) to
49 permanently deprive any person of property, money, or thing of value is not a necessary
50 element of the offense.

51 (5) Each separate communication made for the purpose of executing or concealing a
52 scheme or artifice described in Subsection (1) is a separate act and offense of communication
53 fraud.

54 (6) (a) To communicate as described in Subsection (1) means to bestow, convey, make
55 known, recount, impart; to give by way of information; to talk over; or to transmit information.

56 (b) Means of communication include but are not limited to use of the mail, telephone,
57 telegraph, radio, television, newspaper, computer, and spoken and written communication.

58 (7) A person may not be convicted under this section unless the pretenses,

59 representations, promises, or material omissions made or omitted were made or omitted
60 intentionally, knowingly, or with a reckless disregard for the truth.

61 (8) As used in this section, "sensitive personal identifying information" means any of
62 the following information regarding an individual's:

63 (a) Social Security number;

64 (b) driver's license number or other government issued identification number;

65 (c) financial account number or credit or debit card number;

66 (d) password or personal identification number or other identification required to gain
67 access to a financial account or a secure website;

68 (e) automated or electronic signature;

69 (f) unique biometric data; or

70 (g) any other information that can be used to gain access to an individual's financial
71 accounts or to obtain goods or services.

Legislative Review Note

as of 12-29-05 1:11 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel