

By the Committee on Crime & Punishment and Representatives
Sindler and Argenziano

1 A bill to be entitled
2 An act relating to culpable negligence;
3 providing definitions; specifying conditions
4 for committing culpable negligence causing
5 public financial injury; providing penalties;
6 requiring certain contracts to provide notice
7 of such conditions; providing construction;
8 providing for prosecution by a state attorney
9 or the Statewide Prosecutor; providing an
10 effective date.

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

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14 Section 1. Definitions.--For purposes of this act:

15 (1) "Contract manager" means any person, natural or
16 artificial, who has been given the custody, and awarded the
17 privilege, of administering state financial assets in state
18 trust funds pursuant to a contract. For the purposes of this
19 section a contract manager includes both the business and its
20 owners, operators, officers, directors, partners, or other
21 individuals engaged in the management activities of a
22 business.

23 (2) "State financial assets" means monetary funds
24 intended for, existing in, or owed to any state trust fund,
25 and includes any negotiable or other monetary instrument drawn
26 on or disbursed from a trust fund.

27 (3) "Entrusted by the state" means that the state has
28 given custody of and disbursement authority over state
29 financial assets to the contract manager by means of a
30 contract, without regard to whether there exists a fiduciary
31 relationship between the state and the contract manager.

1 (4) "Culpable negligence" means negligence of a gross
2 and flagrant character which evinces a reckless disregard for
3 the state financial assets entrusted to a contract manager and
4 leads to a presumption of indifference to the consequences.

5 Section 2. Culpable negligence causing public
6 financial injury.--

7 (1) Any contract manager who, having been entrusted by
8 the state with the care and custody of state financial assets
9 in a state trust fund, causes or through inaction allows to be
10 caused aggregate financial losses valued at \$100,000 or more
11 of those state financial assets over a 12-month period through
12 culpable negligence commits the offense of culpable negligence
13 causing public financial injury, a felony of the third degree,
14 punishable as provided in s. 775.082, s. 775.083, or s.
15 775.084, Florida Statutes.

16 (2) Any state contract which entrusts state financial
17 assets in a state trust fund to another person or corporation
18 with a contract value of \$50,000 or more shall include notice
19 of the provisions of subsection (1). Failure to provide this
20 notice shall not constitute a defense to the crime of culpable
21 negligence causing public financial injury.

22 (3) Prosecutions for violations of this act may be
23 brought on behalf of this state by any state attorney or by
24 the Statewide Prosecutor.

25 Section 3. This act shall take effect July 1 of the
26 year in which enacted.

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