

By the Committee on Crime & Punishment and Representatives  
Futch, Ball and Fasano

1                                   A bill to be entitled  
2           An act relating to culpable negligence;  
3           creating s. 812.030, F.S.; providing  
4           definitions; specifying the offense of culpable  
5           negligence causing public financial injury;  
6           specifying elements of the offense; providing  
7           penalties; requiring certain notice in certain  
8           state contracts; specifying that failure to  
9           provide such notice does not constitute a  
10          defense to the offense; providing for  
11          prosecuting such offenses; providing an  
12          effective date.

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

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16           Section 1. Section 812.030, Florida Statutes, is  
17 created to read:

18           812.030 Culpable negligence causing public financial  
19 injury.--

20           (1) For purposes of this act:

21           (a) "Culpable negligence" means negligence of a gross  
22 and flagrant character which evinces a reckless disregard for  
23 public property and is so outrageous as to raise a presumption  
24 that the offender was indifferent to the consequences of his  
25 or her action or inaction.

26           (b) "Public property" means property, as defined in s.  
27 812.012, which is owned by the state.

28           (c) "State" means the state, any agency of the state,  
29 any political subdivision of the state, or any agency of a  
30 political subdivision of the state.

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1           (2)(a) A person commits the offense of culpable  
2 negligence causing public financial injury if the state has  
3 entrusted public property to such person and the person,  
4 through culpable negligence, causes or through inaction allows  
5 to be caused losses in the value of such property of \$100,000  
6 or more in any 12-month period. For purposes of this  
7 paragraph:

8           1. "Entrust" means giving custody or control by any  
9 means, regardless of the existence of a fiduciary  
10 relationship.

11           2. "Cause or through inaction allow to be caused  
12 losses" means acting or failing to act under circumstances  
13 which would indicate that a loss of value would occur when  
14 such a loss could reasonably be foreseen or prevented, even  
15 though the loss was not actually intended.

16           (b) If the loss is valued at \$100,000 or more, but  
17 less than \$1 million, the offense is a misdemeanor of the  
18 first degree, punishable as provided in ss. 775.082 and  
19 775.083.

20           (c) If the loss is valued at \$1 million or more, the  
21 offense is a felony of the third degree, punishable as  
22 provided in ss. 775.082, 775.083, and 775.084.

23           (3) Any state contract with a contract value of  
24 \$50,000 or more shall include notice of the provisions of  
25 subsection (2). Failure to provide this notice shall not  
26 constitute a defense to the crime of culpable negligence  
27 causing public financial injury.

28           (4) Prosecutions for violations of this section may be  
29 brought on behalf of the state by any state attorney or by the  
30 statewide prosecutor. Only the Department of Legal Affairs,  
31 any state attorney, or any state agency having jurisdiction

1 over conduct in violation of a provision of ss.  
2 812.012-812.037 or s. 812.081 may institute civil proceedings  
3 under this section.

4 Section 2. This act shall take effect July 1, 1999.

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7 HOUSE SUMMARY

8 Specifies the offense of culpable negligence causing  
9 public financial injury and the elements of the offense  
10 and provides criminal penalties for committing such  
11 offense. Requires state contracts to provide notice of  
12 the elements of such offense and provides that failure to  
13 provide such notice is not a defense. Provides for  
14 prosecuting such offenses. See bill for details.  
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