

By Representative Argenziano

1 A bill to be entitled
2 An act relating to culpable negligence;
3 creating s. 812.0305, 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 constitutes a defense to
10 the offense; providing for prosecuting such
11 offenses; specifying conditions under which a
12 person cannot be found guilty of such offense;
13 providing applicability; providing an effective
14 date.

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

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18 Section 1. Section 812.0305, Florida Statutes, is
19 created to read:

20 812.0305 Culpable negligence causing public financial
21 injury.--

22 (1) For purposes of this section:

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

28 (b) "Public property" means property, as defined in s.
29 812.012, which is owned by the state, except funds held by the
30 state for investment purposes, including public employee
31 retirement or pension funds.

1 (c) "State" means the state, any agency of the state,
2 any political subdivision of the state, or any agency of a
3 political subdivision of the state.

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

11 1. "Entrust" means giving custody or control, by any
12 means, to a person or, in the case of a legal entity, to that
13 entity's officers, directors, employees, or agents who have
14 managerial authority over the public property or who could
15 otherwise prevent financial injury, regardless of the
16 existence of a fiduciary relationship.

17 2. "Causes losses, or through inaction allows losses,"
18 means acting or failing to act under circumstances which would
19 indicate that a loss of value would occur when such a loss
20 could reasonably be foreseen and prevented, even though the
21 loss was not actually intended.

22 (b) If the loss is valued at \$100,000 or more, but
23 less than \$500,000, the offense is a misdemeanor of the first
24 degree, punishable as provided in s. 775.082 or s. 775.083.

25 (c) If the loss is valued at \$500,000 or more, the
26 offense is a felony of the third degree, punishable as
27 provided in s. 775.082, s. 775.083, or s. 775.084.

28 (3) Any state contract with a contract value of
29 \$50,000 or more must include notice of the provisions of
30 subsection (2). Failure to provide this notice shall
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1 constitute a defense to the crime of culpable negligence
2 causing public financial injury.
3 (4) Prosecutions for violations of this section may be
4 brought on behalf of the state by any state attorney or by the
5 statewide prosecutor. Only the Department of Legal Affairs, a
6 state attorney, or a state agency having jurisdiction over
7 conduct in violation of a provision of ss. 812.012-812.037 or
8 s. 812.081 may institute civil proceedings under this section.
9 (5) A person does not commit the offense of culpable
10 negligence causing public financial injury when:
11 (a) The person has a contract with the state and is in
12 compliance with the terms of the contract; or
13 (b) The loss of public property directly results from
14 the person following an express directive of the Legislature
15 or a state agency rule.
16 Section 2. This act shall take effect July 1, 2000,
17 and applies to acts or omissions that occur on or after that
18 date.

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21 HOUSE SUMMARY

22 Specifies the offense of culpable negligence causing
23 public financial injury. Specifies elements of the
24 offense, and provides penalties for the offense. Requires
25 certain notice in certain state contracts, and specifies
26 that failure to provide such notice constitutes a defense
to the offense. Provides for prosecuting such offenses.
Specifies conditions under which a person cannot be found
guilty of such offense. See bill for details.