

By the Committee on Crime & Punishment and Representative
Ball

1 A bill to be entitled
2 An act relating to offenses by public servants;
3 amending s. 16.56, F.S.; authorizing the Office
4 of Statewide Prosecution to prosecute
5 violations of ch. 838, F.S.; amending s.
6 287.133, F.S.; redefining the term "public
7 entity crime"; providing criteria for the
8 placement and removal of names on the convicted
9 vendor list; providing a short title; amending
10 s. 838.014, F.S.; redefining the terms
11 "benefit," "corruptly," "harm," and "public
12 servant"; deleting definitions; amending ss.
13 838.015 and 838.016, F.S.; increasing
14 penalties; creating ss. 838.022, 838.20,
15 838.21, and 838.23, F.S.; providing criminal
16 penalties for official misconduct, criminal
17 misuse of official position, disclosure or use
18 of confidential criminal justice information,
19 and bid tampering; amending s. 837.02, F.S.;
20 providing a criminal penalty for perjury in an
21 official proceeding by a public servant;
22 amending s. 921.0022, F.S.; deleting specified
23 felonies from and adding specified felonies to
24 the Criminal Punishment Code; repealing s.
25 839.25, F.S., relating to official misconduct;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Paragraph (a) of subsection (1) of section
31 16.56, Florida Statutes, is amended to read:

1 16.56 Office of Statewide Prosecution.--
2 (1) There is created in the Department of Legal
3 Affairs an Office of Statewide Prosecution. The office shall
4 be a separate "budget entity" as that term is defined in
5 chapter 216. The office may:
6 (a) Investigate and prosecute the offenses of:
7 1. Bribery, any violation of chapter 838, burglary,
8 criminal usury, extortion, gambling, kidnapping, larceny,
9 murder, prostitution, perjury, robbery, carjacking, and
10 home-invasion robbery;
11 2. Any crime involving narcotic or other dangerous
12 drugs;
13 3. Any violation of the provisions of the Florida RICO
14 (Racketeer Influenced and Corrupt Organization) Act, including
15 any offense listed in the definition of racketeering activity
16 in s. 895.02(1)(a), providing such listed offense is
17 investigated in connection with a violation of s. 895.03 and
18 is charged in a separate count of an information or indictment
19 containing a count charging a violation of s. 895.03, the
20 prosecution of which listed offense may continue independently
21 if the prosecution of the violation of s. 895.03 is terminated
22 for any reason;
23 4. Any violation of the provisions of the Florida
24 Anti-Fencing Act;
25 5. Any violation of the provisions of the Florida
26 Antitrust Act of 1980, as amended;
27 6. Any crime involving, or resulting in, fraud or
28 deceit upon any person; or
29 7. Any violation of s. 847.0135, relating to computer
30 pornography and child exploitation prevention, or any offense
31 related to a violation of s. 847.0135,

1
2 or any attempt, solicitation, or conspiracy to commit any of
3 the crimes specifically enumerated above. The office shall
4 have such power only when any such offense is occurring, or
5 has occurred, in two or more judicial circuits as part of a
6 related transaction, or when any such offense is connected
7 with an organized criminal conspiracy affecting two or more
8 judicial circuits.

9 Section 2. Paragraph (g) of subsection (1) and
10 paragraph (e) of subsection (3) of section 287.133, Florida
11 Statutes, are amended to read:

12 287.133 Public entity crime; denial or revocation of
13 the right to transact business with public entities.--

14 (1) As used in this section:

15 (g) "Public entity crime" means a violation of any
16 state or federal law by a person with respect to and directly
17 related to the transaction of business with any public entity
18 or with an agency or political subdivision of any other state
19 or with the United States, including, but not limited to, any
20 bid or contract for goods or services, any lease for real
21 property, or any contract for the construction or repair of a
22 public building or public work, involving antitrust, fraud,
23 theft, bribery or any of the provisions of chapter 838,
24 collusion, racketeering, conspiracy, or material
25 misrepresentation.

26 (3)

27 (e)1. Upon receipt of information regarding a finding
28 of guilt against a person of a public entity crime, the
29 department shall determine whether the finding has been
30 recorded with the clerk of the court in which the finding was
31 obtained and, if so, shall immediately place the name of that

1 person or affiliate on the convicted vendor list. The
2 department shall also notify the person or affiliate of his or
3 her right to a hearing, the procedure that must be followed,
4 and the applicable time requirements. If the person or
5 affiliate does not request a hearing, the name of that person
6 or affiliate remains on the convicted vendor list unless the
7 finding of guilt is overturned on appeal or has been sealed or
8 expunged by a court of competent jurisdiction. As used in this
9 paragraph, the term "finding of guilt" means any determination
10 of guilt as a result of a trial or the entry of a plea of
11 guilty or nolo contendere, regardless of whether adjudication
12 is withheld, and includes, but is not limited to, a finding of
13 guilt by a federal or military tribunal, including a
14 court-martial conducted by the Armed Forces of the United
15 States, and includes a finding of guilt by a court of any
16 state of the United States.~~Upon receiving reasonable~~
17 ~~information from any source that a person has been convicted,~~
18 ~~the department shall investigate the information and determine~~
19 ~~whether good cause exists to place that person or an affiliate~~
20 ~~of that person on the convicted vendor list. If good cause~~
21 ~~exists, the department shall notify the person or affiliate in~~
22 ~~writing of its intent to place the name of that person or~~
23 ~~affiliate on the convicted vendor list, and of the person's or~~
24 ~~affiliate's right to a hearing, the procedure that must be~~
25 ~~followed, and the applicable time requirements. If the person~~
26 ~~or affiliate does not request a hearing, the department shall~~
27 ~~enter a final order placing the name of the person or~~
28 ~~affiliate on the convicted vendor list. No person or~~
29 ~~affiliate may be placed on the convicted vendor list without~~
30 ~~receiving an individual notice of intent from the department.~~
31

1 2. Within 21 days after ~~of~~ receipt of the notice ~~of~~
2 ~~intent~~, the person or affiliate may file a petition for a
3 formal hearing pursuant to ss. 120.569 and 120.57(1) to
4 determine whether there is any substantial ~~whether it is in~~
5 ~~the public~~ purpose or interest in removing the name of ~~for~~
6 that person or affiliate from ~~to be placed on~~ the convicted
7 vendor list. A person or affiliate may not file a petition
8 for an informal hearing under s. 120.57(2). The procedures of
9 chapter 120 shall apply to any formal hearing under this
10 section except where they are in conflict with the following
11 provisions:

12 a. The petition shall be filed with the department.
13 The department shall be a party to the proceeding for all
14 purposes.

15 b. Within 5 days after the filing of the petition, the
16 department shall notify the Division of Administrative
17 Hearings of the request for a formal hearing. The director of
18 the Division of Administrative Hearings shall, within 5 days
19 after receipt of notice from the department, assign an
20 administrative law judge to preside over the proceeding. The
21 administrative law judge, upon request by a party, may
22 consolidate related proceedings.

23 c. The administrative law judge shall conduct the
24 formal hearing within 30 days after being assigned, unless
25 otherwise stipulated by the parties.

26 d. Within 30 days after the formal hearing or receipt
27 of the hearing transcript, whichever is later, the
28 administrative law judge shall enter a final order, which
29 shall consist of findings of fact, conclusions of law,
30 interpretation of agency rules, and any other information
31 required by law or rule to be contained in the final order.

1 Such final order shall remove ~~place~~ or not remove ~~place~~ the
2 person or affiliate from ~~on~~ the convicted vendor list.

3 e. The final order of the administrative law judge
4 shall be final agency action for purposes of s. 120.68.

5 f. At any time after the filing of the petition,
6 informal disposition may be made pursuant to s. 120.57(4). In
7 that event, the administrative law judge shall enter a final
8 order adopting the stipulation, agreed settlement, or consent
9 order.

10 3. In determining whether there is a substantial ~~it is~~
11 ~~in the~~ public interest justifying the removal of the name of
12 ~~the to place a~~ person or affiliate from ~~on~~ the convicted
13 vendor list, the administrative law judge may ~~shall~~ consider
14 the following factors:

15 a. Whether the person or affiliate committed a public
16 entity crime.

17 b. The nature and details of the public entity crime.

18 c. The degree of culpability of the person or
19 affiliate proposed to be placed on the convicted vendor list.

20 d. Prompt or voluntary payment of any damages or
21 penalty as a result of the conviction.

22 e. Cooperation with state or federal investigation or
23 prosecution of any public entity crime, provided that a good
24 faith exercise of any constitutional, statutory, or other
25 right during any portion of the investigation or prosecution
26 of any public entity crime shall not be considered a lack of
27 cooperation.

28 f. Disassociation from any other persons or affiliates
29 convicted of the public entity crime.

30 g. Prior or future self-policing by the person or
31 affiliate to prevent public entity crimes.

1 h. Reinstatement or clemency in any jurisdiction in
2 relation to the public entity crime at issue in the
3 proceeding.

4 i. Compliance by the person or affiliate with the
5 notification provisions of paragraph (b).

6 j. The needs of public entities for additional
7 competition in the procurement of goods and services in their
8 respective markets.

9 k. Mitigation based upon any demonstration of good
10 citizenship by the person or affiliate.

11 4. In any proceeding under this section, the person to
12 whom notice was given ~~department~~ shall be required to prove
13 that there is a substantial ~~it is in the~~ public interest
14 justifying the removal of the name of ~~for the person from to~~
15 ~~whom it has given notice under this section to be placed on~~
16 the convicted vendor list. ~~Proof of a conviction of the person~~
17 ~~or that one is an affiliate of such person shall constitute a~~
18 ~~prima facie case that it is in the public interest for the~~
19 ~~person or affiliate to whom the department has given notice to~~
20 ~~be put on the convicted vendor list. Prompt payment of~~
21 ~~damages or posting of a bond, cooperation with investigation,~~
22 ~~and termination of the employment or other relationship with~~
23 ~~the employee or other natural person responsible for the~~
24 ~~public entity crime shall create a rebuttable presumption that~~
25 ~~it is not in the public interest to place a person or~~
26 ~~affiliate on the convicted vendor list.~~ Status as an
27 affiliate must be proven by the department by clear and
28 convincing evidence. If the administrative law judge
29 determines that the person was not convicted or is not an
30 affiliate of such person, that person or affiliate shall be
31 removed from ~~not be placed on~~ the convicted vendor list.

1 5. ~~Any person or affiliate who has been notified by~~
2 ~~the department of its intent to place his or her name on the~~
3 ~~convicted vendor list may offer evidence on any relevant~~
4 ~~issue. An affidavit alone shall not constitute competent~~
5 ~~substantial evidence that the person has not been convicted or~~
6 ~~is not an affiliate of a person so convicted. Upon~~
7 ~~establishment of a prima facie case that it is in the public~~
8 ~~interest for the person or affiliate to whom the department~~
9 ~~has given notice to be put on the convicted vendor list, that~~
10 ~~person or affiliate may prove by a preponderance of the~~
11 ~~evidence that it would not be in the public interest to put~~
12 ~~him or her on the convicted vendor list, based upon evidence~~
13 ~~addressing the factors in subparagraph 3.~~

14 Section 3. This act may be cited as the "Citizens'
15 Right to Honest Government Act."

16 Section 4. Section 838.014, Florida Statutes, is
17 amended to read:

18 838.014 Definitions.--As used in ~~For the purposes of~~
19 ~~this chapter, the term unless a different meaning plainly is~~
20 ~~required:~~

21 (1) "Benefit" means gain or advantage, or anything
22 regarded by the person to be benefited as a gain or advantage,
23 including the doing of an act beneficial to any person in
24 whose welfare he or she is interested, including any
25 commission, gift, gratuity, property, commercial interest, or
26 any other thing of economic value.

27 (2) "Corruptly" or "corrupt intent" means done with
28 knowledge that the act is wrongful.

29 (3) "Harm" means pecuniary or other loss,
30 disadvantage, or injury to the person affected, including
31

1 loss, disadvantage, or injury to any other person in whose
2 welfare he or she is interested.

3 (4) "Public servant" means:

4 (a) Any officer or employee of a state, county,
5 municipal, or special district agency or entity;

6 (b) Any legislative or judicial officer or employee;

7 (c) Any officer, director, partner, manager,
8 representative, or employee of a nongovernmental entity that
9 is authorized by law or contract to perform a governmental
10 function or provide a governmental service on behalf of a
11 state, county, municipal, or special district agency or
12 entity;

13 (d) Any person who holds an office in a political
14 party or political party committee;

15 (e) Any person, except a witness, who acts as a
16 master, receiver, auditor, juror, arbitrator, umpire, referee,
17 consultant, or hearing officer while performing a governmental
18 function; or

19 (f) A candidate for election or appointment to any of
20 the positions listed in this subsection, or an individual who
21 has been elected to, but has yet to officially assume the
22 responsibilities of, public office.

23 ~~(2) "Pecuniary benefit" is benefit in the form of any~~
24 ~~commission, gift, gratuity, property, commercial interest, or~~
25 ~~any other thing of economic value.~~

26 ~~(3) "Harm" means loss, disadvantage, or injury to the~~
27 ~~person affected, including loss, disadvantage, or injury to~~
28 ~~any other person in whose welfare he or she is interested.~~

29 ~~(4) "Public servant" means any public officer, agent,~~
30 ~~or employee of government, whether elected or appointed,~~
31 ~~including, but not limited to, any executive, legislative, or~~

1 ~~judicial officer; any person who holds an office or position~~
2 ~~in a political party or political party committee, whether~~
3 ~~elected or appointed; and any person participating as a~~
4 ~~special master, receiver, auditor, juror, arbitrator, umpire,~~
5 ~~referee, consultant, administrative law judge, hearing~~
6 ~~officer, or hearing examiner, or person acting on behalf of~~
7 ~~any of these, in performing a governmental function; but the~~
8 ~~term does not include witnesses. Such term shall include a~~
9 ~~candidate for election or appointment to any such office,~~
10 ~~including any individual who seeks or intends to occupy any~~
11 ~~such office. It shall include any person appointed to any of~~
12 ~~the foregoing offices or employments before and after he or~~
13 ~~she qualifies.~~

14 ~~(5) "Government" includes the state government and any~~
15 ~~city or county government or any branch, political~~
16 ~~subdivision, or agency of the state, county, or city~~
17 ~~government.~~

18 ~~(6) "Corruptly" means done with a wrongful intent and~~
19 ~~for the purpose of obtaining or compensating or receiving~~
20 ~~compensation for any benefit resulting from some act or~~
21 ~~omission of a public servant which is inconsistent with the~~
22 ~~proper performance of his or her public duties.~~

23 Section 5. Subsection (3) of section 838.015, Florida
24 Statutes, is amended to read:

25 838.015 Bribery.--

26 (3) Any person who commits bribery commits ~~is guilty~~
27 ~~of~~ a felony of the second ~~third~~ degree, punishable as provided
28 in s. 775.082, s. 775.083, or s. 775.084.

29 Section 6. Subsection (4) of section 838.016, Florida
30 Statutes, is amended to read:

31

1 838.016 Unlawful compensation or reward for official
2 behavior.--
3 (4) Whoever violates the provisions of this section
4 commits ~~shall be guilty of~~ a felony of the second ~~third~~
5 degree, punishable as provided in s. 775.082, s. 775.083, or
6 s. 775.084.
7 Section 7. Sections 838.022, 838.20, 838.21, and
8 838.23, Florida Statutes, are created to read:
9 838.022 Official misconduct.--
10 (1) It is unlawful for a public servant, with corrupt
11 intent to obtain a benefit for any person or to cause harm to
12 another, to:
13 (a) Falsify, or cause another person to falsify, any
14 official record or official document;
15 (b) Conceal, cover up, destroy, mutilate, or alter any
16 official record or official document or cause another person
17 to perform such an act;
18 (c) Obstruct, delay, or prevent the communication of
19 information relating to the commission of a felony that
20 directly involves or affects the public agency or public
21 entity served by the public servant; or
22 (d) Refrain from performing a mandatory statutory duty
23 or cause another person to refrain from performing such duty.
24 (2) For the purposes of this section:
25 (a) A candidate shall not be included in the term
26 "public servant."
27 (b) An official record or official document includes
28 only public records.
29 (3) Any person who violates this section commits a
30 felony of the second degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084.

1 838.20 Criminal misuse of official position.--
2 (1) It is unlawful for any public officer or public
3 employee to corruptly use or attempt to use his or her
4 official position, or any public property or public resource
5 that is within his or her trust, to:
6 (a) Establish any business relationship between the
7 public officer's or public employee's own agency and any
8 business entity in which the public officer or public employee
9 receives or has an expectation of receiving a benefit; or
10 (b) Perform his or her official duties to secure for
11 himself or herself a benefit that is not generally available
12 to the public.
13 (2) Any person who violates this section commits a
14 felony of the second degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084.
16 838.21 Disclosure or use of confidential criminal
17 justice information.--It is unlawful for a public servant,
18 with intent to obstruct, impede, or prevent a criminal
19 investigation or a criminal prosecution, to disclose active
20 criminal investigative or intelligence information as defined
21 in chapter 119 or to disclose or use information regarding
22 either the efforts to secure or the issuance of a warrant,
23 subpoena, or other court process or court order relating to a
24 criminal investigation or criminal prosecution when such
25 information is not available to the general public and is
26 gained by reason of the public servant's official position.
27 Any person who violates this section commits a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.
30 838.23 Bid tampering.--
31 (1) As used in this section, the term:

1 (a) "Bid" includes a response to an "invitation to
2 bid" or "request for proposals" as those terms are defined in
3 s. 287.012.

4 (b) "Commodity" means any goods, merchandise, wares,
5 produce, chose in action, land, article of commerce, or other
6 tangible or intangible property, real, personal, or mixed, for
7 use, consumption, production, enjoyment, or resale.

8 (c) "Service" means any kind of activity performed in
9 whole or in part for economic benefit.

10 (2) It is unlawful for a public servant, with corrupt
11 intent to influence or attempt to influence the competitive
12 bidding process undertaken by any state, county, municipal, or
13 special district agency, or any other public entity, for the
14 procurement of commodities or services, to:

15 (a) Disclose material information concerning a bid or
16 other aspects of the competitive bidding process when such
17 information is not publicly disclosed.

18 (b) Establish a bid specification, contract
19 specification, request for proposal, invitation to bid, or
20 other material aspect of the competitive bidding process that
21 provides an unfair competitive advantage to any person who
22 submits a bid.

23 (c) Alter or amend a submitted bid, documents or other
24 materials supporting a submitted bid, or bid results for the
25 purpose of providing an unfair competitive advantage to any
26 person who submits a bid.

27 (3) It is unlawful for a public servant, with corrupt
28 intent to obtain a benefit for any person or to cause unlawful
29 harm to another, to circumvent a competitive bidding process
30 required by law or rule by using a sole-source contract for
31 commodities or services.

1 (4) It is unlawful for any person to knowingly agree,
2 conspire, combine, or confederate, directly or indirectly,
3 with a public servant to violate subsection (2) or subsection
4 (3).

5 (5) It is unlawful for any person to knowingly enter
6 into a contract for commodities or services which was secured
7 by a public servant acting in violation of subsection (2) or
8 subsection (3).

9 (6) Any person who violates this section commits a
10 felony of the second degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 Section 8. Section 837.02, Florida Statutes, is
13 amended to read:

14 837.02 Perjury in official proceedings.--

15 (1) Except as provided in subsections ~~subsection~~ (2)
16 and (3), whoever makes a false statement, which he or she does
17 not believe to be true, under oath in an official proceeding
18 in regard to any material matter, commits a felony of the
19 third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 (2) Whoever makes a false statement, which he or she
22 does not believe to be true, under oath in an official
23 proceeding that relates to the prosecution of a capital
24 felony, commits a felony of the second degree, punishable as
25 provided in s. 775.082, s. 775.083, or s. 775.084.

26 (3) Any public servant, as defined in s. 838.014, who
27 makes a false statement, which he or she does not believe to
28 be true, under oath in an official proceeding in regard to any
29 material matter that relates to his or her duties or actions
30 as a public servant commits a felony of the second degree,
31

1 punishable as provided in s. 775.082, s. 775.083, or s.
2 775.084.

3 (4)~~(3)~~ Knowledge of the materiality of the statement
4 is not an element of the crime of perjury under subsection
5 (1), or subsection (2), or subsection (3) and the defendant's
6 mistaken belief that the statement was not material is not a
7 defense.

8 Section 9. Paragraphs (a), (f), and (g) of subsection
9 (3) of section 921.0022, Florida Statutes, are amended to
10 read:

11 921.0022 Criminal Punishment Code; offense severity
12 ranking chart.--

13 (3) OFFENSE SEVERITY RANKING CHART

14	15	16	17	18
	Florida	Felony		
	Statute	Degree	Description	
19	24.118(3)(a)	3rd	(a) LEVEL 1 Counterfeit or altered state lottery ticket.	
20				
21	212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.	
22				
23				
24	212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.	
25				
26				
27	319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.	
28				
29				
30	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.	
31				

1	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
2			registration license plates or
3			validation stickers.
4	322.212(1)	3rd	Possession of forged, stolen,
5			counterfeit, or unlawfully issued
6			driver's license; possession of
7			simulated identification.
8	322.212(4)	3rd	Supply or aid in supplying
9			unauthorized driver's license or
10			identification card.
11	322.212(5)(a)	3rd	False application for driver's
12			license or identification card.
13	370.13(3)(a)	3rd	Molest any stone crab trap, line,
14			or buoy which is property of
15			licenseholder.
16	370.135(1)	3rd	Molest any blue crab trap, line,
17			or buoy which is property of
18			licenseholder.
19	372.663(1)	3rd	Poach any alligator or
20			crocodilia.
21	414.39(2)	3rd	Unauthorized use, possession,
22			forgery, or alteration of food
23			stamps, Medicaid ID, value
24			greater than \$200.
25	414.39(3)(a)	3rd	Fraudulent misappropriation of
26			public assistance funds by
27			employee/official, value more
28			than \$200.
29			
30			
31			

1	443.071(1)	3rd	False statement or representation
2			to obtain or increase
3			unemployment compensation
4			benefits.
5	458.327(1)(a)	3rd	Unlicensed practice of medicine.
6	466.026(1)(a)	3rd	Unlicensed practice of dentistry
7			or dental hygiene.
8	509.151(1)	3rd	Defraud an innkeeper, food or
9			lodging value greater than \$300.
10	517.302(1)	3rd	Violation of the Florida
11			Securities and Investor
12			Protection Act.
13	562.27(1)	3rd	Possess still or still apparatus.
14	713.69	3rd	Tenant removes property upon
15			which lien has accrued, value
16			more than \$50.
17	812.014(3)(c)	3rd	Petit theft (3rd conviction);
18			theft of any property not
19			specified in subsection (2).
20	812.081(2)	3rd	Unlawfully makes or causes to be
21			made a reproduction of a trade
22			secret.
23	815.04(4)(a)	3rd	Offense against intellectual
24			property (i.e., computer
25			programs, data).
26	817.52(2)	3rd	Hiring with intent to defraud,
27			motor vehicle services.
28	826.01	3rd	Bigamy.
29	828.122(3)	3rd	Fighting or baiting animals.
30			
31			

1	831.04(1)	3rd	Any erasure, alteration, etc., of
2			any replacement deed, map, plat,
3			or other document listed in s.
4			92.28.
5	831.31(1)(a)	3rd	Sell, deliver, or possess
6			counterfeit controlled
7			substances, all but s. 893.03(5)
8			drugs.
9	832.041(1)	3rd	Stopping payment with intent to
10			defraud \$150 or more.
11	832.05		
12	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
13			worthless checks \$150 or more or
14			obtaining property in return for
15			worthless check \$150 or more.
16	838.015(3)	3rd	Bribery.
17	838.016(1)	3rd	Public servant receiving unlawful
18			compensation.
19	838.15(2)	3rd	Commercial bribe receiving.
20	838.16	3rd	Commercial bribery.
21	843.18	3rd	Fleeing by boat to elude a law
22			enforcement officer.
23	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
24			lewd, etc., material (2nd
25			conviction).
26	849.01	3rd	Keeping gambling house.
27	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
28			or assist therein, conduct or
29			advertise drawing for prizes, or
30			dispose of property or money by
31			means of lottery.

1	849.23	3rd	Gambling-related machines;
2			"common offender" as to property
3			rights.
4	849.25(2)	3rd	Engaging in bookmaking.
5	860.08	3rd	Interfere with a railroad signal.
6	860.13(1)(a)	3rd	Operate aircraft while under the
7			influence.
8	893.13(2)(a)2.	3rd	Purchase of cannabis.
9	893.13(6)(a)	3rd	Possession of cannabis (more than
10			20 grams).
11	893.13(7)(a)10.	3rd	Affix false or forged label to
12			package of controlled substance.
13	934.03(1)(a)	3rd	Intercepts, or procures any other
14			person to intercept, any wire or
15			oral communication.
16			(f) LEVEL 6
17	316.027(1)(b)	2nd	Accident involving death, failure
18			to stop; leaving scene.
19	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
20			conviction.
21	775.0875(1)	3rd	Taking firearm from law
22			enforcement officer.
23	775.21(10)	3rd	Sexual predators; failure to
24			register; failure to renew
25			driver's license or
26			identification card.
27	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
28			without intent to kill.
29	784.021(1)(b)	3rd	Aggravated assault; intent to
30			commit felony.
31	784.041	3rd	Felony battery.

1	784.048(3)	3rd	Aggravated stalking; credible
2			threat.
3	784.048(5)	3rd	Aggravated stalking of person
4			under 16.
5	784.07(2)(c)	2nd	Aggravated assault on law
6			enforcement officer.
7	784.08(2)(b)	2nd	Aggravated assault on a person 65
8			years of age or older.
9	784.081(2)	2nd	Aggravated assault on specified
10			official or employee.
11	784.082(2)	2nd	Aggravated assault by detained
12			person on visitor or other
13			detainee.
14	784.083(2)	2nd	Aggravated assault on code
15			inspector.
16	787.02(2)	3rd	False imprisonment; restraining
17			with purpose other than those in
18			s. 787.01.
19	790.115(2)(d)	2nd	Discharging firearm or weapon on
20			school property.
21	790.161(2)	2nd	Make, possess, or throw
22			destructive device with intent to
23			do bodily harm or damage
24			property.
25	790.164(1)	2nd	False report of deadly explosive
26			or act of arson or violence to
27			state property.
28	790.19	2nd	Shooting or throwing deadly
29			missiles into dwellings, vessels,
30			or vehicles.
31			

1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	800.04(5)(d)	3rd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			less than 18 years.
10	800.04(6)(b)	2nd	Lewd or lascivious conduct;
11			offender 18 years of age or
12			older.
13	806.031(2)	2nd	Arson resulting in great bodily
14			harm to firefighter or any other
15			person.
16	810.02(3)(c)	2nd	Burglary of occupied structure;
17			unarmed; no assault or battery.
18	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
19			but less than \$100,000, grand
20			theft in 2nd degree.
21	812.13(2)(c)	2nd	Robbery, no firearm or other
22			weapon (strong-arm robbery).
23	817.034(4)(a)1.	1st	Communications fraud, value
24			greater than \$50,000.
25	817.4821(5)	2nd	Possess cloning paraphernalia
26			with intent to create cloned
27			cellular telephones.
28	825.102(1)	3rd	Abuse of an elderly person or
29			disabled adult.
30	825.102(3)(c)	3rd	Neglect of an elderly person or
31			disabled adult.

1	825.1025(3)	3rd	Lewd or lascivious molestation of
2			an elderly person or disabled
3			adult.
4	825.103(2)(c)	3rd	Exploiting an elderly person or
5			disabled adult and property is
6			valued at less than \$20,000.
7	827.03(1)	3rd	Abuse of a child.
8	827.03(3)(c)	3rd	Neglect of a child.
9	827.071(2)&(3)	2nd	Use or induce a child in a sexual
10			performance, or promote or direct
11			such performance.
12	836.05	2nd	Threats; extortion.
13	836.10	2nd	Written threats to kill or do
14			bodily injury.
15	<u>838.21</u>	<u>3rd</u>	<u>Disclosure of confidential</u>
16			<u>criminal justice information.</u>
17	843.12	3rd	Aids or assists person to escape.
18	847.0135(3)	3rd	Solicitation of a child, via a
19			computer service, to commit an
20			unlawful sex act.
21	914.23	2nd	Retaliation against a witness,
22			victim, or informant, with bodily
23			injury.
24	943.0435(9)	3rd	Sex offenders; failure to comply
25			with reporting requirements.
26	944.35(3)(a)2.	3rd	Committing malicious battery upon
27			or inflicting cruel or inhuman
28			treatment on an inmate or
29			offender on community
30			supervision, resulting in great
31			bodily harm.

1	944.40	2nd	Escapes.
2	944.46	3rd	Harboring, concealing, aiding
3			escaped prisoners.
4	944.47(1)(a)5.	2nd	Introduction of contraband
5			(firearm, weapon, or explosive)
6			into correctional facility.
7	951.22(1)	3rd	Intoxicating drug, firearm, or
8			weapon introduced into county
9			facility.
10			(g) LEVEL 7
11	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
12			injury.
13	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
14			bodily injury.
15	402.319(2)	2nd	Misrepresentation and negligence
16			or intentional act resulting in
17			great bodily harm, permanent
18			disfiguration, permanent
19			disability, or death.
20	409.920(2)	3rd	Medicaid provider fraud.
21	494.0018(2)	1st	Conviction of any violation of
22			ss. 494.001-494.0077 in which the
23			total money and property
24			unlawfully obtained exceeded
25			\$50,000 and there were five or
26			more victims.
27	782.051(3)	2nd	Attempted felony murder of a
28			person by a person other than the
29			perpetrator or the perpetrator of
30			an attempted felony.
31			

1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
31			

1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	796.03	2nd	Procuring any person under 16
9			years for prostitution.
10	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
11			victim less than 12 years of age;
12			offender less than 18 years.
13	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
14			victim 12 years of age or older
15			but less than 16 years; offender
16			18 years or older.
17	806.01(2)	2nd	Maliciously damage structure by
18			fire or explosive.
19	810.02(3)(a)	2nd	Burglary of occupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
22			unarmed; no assault or battery.
23	810.02(3)(d)	2nd	Burglary of occupied conveyance;
24			unarmed; no assault or battery.
25	812.014(2)(a)	1st	Property stolen, valued at
26			\$100,000 or more; property stolen
27			while causing other property
28			damage; 1st degree grand theft.
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1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.131(2)(a)	2nd	Robbery by sudden snatching.
6	812.133(2)(b)	1st	Carjacking; no firearm, deadly
7			weapon, or other weapon.
8	825.102(3)(b)	2nd	Neglecting an elderly person or
9			disabled adult causing great
10			bodily harm, disability, or
11			disfigurement.
12	825.1025(2)	2nd	Lewd or lascivious battery upon
13			an elderly person or disabled
14			adult.
15	825.103(2)(b)	2nd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$20,000 or more, but
18			less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	<u>837.02(3)</u>	<u>2nd</u>	<u>Perjury by a public servant in an</u>
26			<u>official proceeding.</u>
27	837.05(2)	3rd	Giving false information about
28			alleged capital felony to a law
29			enforcement officer.
30	<u>838.015</u>	<u>2nd</u>	<u>Bribery.</u>
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1	<u>838.016</u>	<u>2nd</u>	<u>Unlawful compensation or reward</u>
2			<u>for official behavior.</u>
3	<u>838.021(3)(a)</u>	<u>2nd</u>	<u>Unlawful harm to a public</u>
4			<u>servant.</u>
5	<u>838.022</u>	<u>2nd</u>	<u>Official misconduct.</u>
6	<u>838.20</u>	<u>2nd</u>	<u>Criminal misuse of official</u>
7			<u>position.</u>
8	<u>838.23</u>	<u>2nd</u>	<u>Bid tampering.</u>
9	872.06	2nd	Abuse of a dead human body.
10	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
11			cocaine (or other drug prohibited
12			under s. 893.03(1)(a), (1)(b),
13			(1)(d), (2)(a), or (2)(b)) within
14			1,000 feet of a child care
15			facility or school.
16	893.13(1)(e)	1st	Sell, manufacture, or deliver
17			cocaine or other drug prohibited
18			under s. 893.03(1)(a), (1)(b),
19			(1)(d), (2)(a), or (2)(b), within
20			1,000 feet of property used for
21			religious services or a specified
22			business site.
23	893.13(4)(a)	1st	Deliver to minor cocaine (or
24			other s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), or (2)(b) drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 50 lbs., less than 2,000
28			lbs.
29	893.135		
30	(1)(b)1.a.	1st	Trafficking in cocaine, more than
31			28 grams, less than 200 grams.

1 893.135
2 (1)(c)1.a. 1st Trafficking in illegal drugs,
3 more than 4 grams, less than 14
4 grams.
5 893.135
6 (1)(d)1. 1st Trafficking in phencyclidine,
7 more than 28 grams, less than 200
8 grams.
9 893.135(1)(e)1. 1st Trafficking in methaqualone, more
10 than 200 grams, less than 5
11 kilograms.
12 893.135(1)(f)1. 1st Trafficking in amphetamine, more
13 than 14 grams, less than 28
14 grams.
15 893.135
16 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
17 grams or more, less than 14
18 grams.
19 Section 10. Section 839.25, Florida Statutes, is
20 repealed.
21 Section 11. This act shall take effect October 1,
22 2000.
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HOUSE SUMMARY

Authorizes the Office of Statewide Prosecution to investigate and prosecute violations of ch. 838, F.S. Provides a short title. Revises and deletes definitions. Includes violation of ch. 838, F.S., in definition of "public entity crime." Requires the Department of Management Services to include the names of certain persons convicted of public entity crimes to be placed on the convicted vendor list and provides circumstances for removal therefrom. Increases the penalties for bribery and unlawful compensation or reward for official behavior to a second degree felony. Provides penalties for official misconduct, misuse of official position, disclosure or use of confidential criminal justice information by a public servant, and bid tampering. Provides a penalty for perjury by a public servant in an official proceeding. Ranks violations of ch. 838, F.S., in the Criminal Punishment Code offense severity ranking chart. Repeals provisions relating to official misconduct.