

By the Committee on Criminal Justice and Senator Sebesta

307-1657A-00

1 A bill to be entitled
2 An act relating to offenses by public servants;
3 amending s. 16.56, F.S.; authorizing the
4 Statewide Prosecutor to prosecute violations of
5 ch. 838, F.S.; amending s. 287.133, F.S.;
6 redefining the term "public entity crime";
7 providing criteria for the placement and
8 removal of names on the convicted vendor list;
9 amending s. 837.02, F.S.; providing for an
10 exception to perjury in official proceedings;
11 creating s. 838.0105, F.S.; providing a short
12 title; amending s. 838.014, F.S.; redefining
13 the terms "benefit," "corruptly," "harm," and
14 "public servant"; amending ss. 838.015,
15 838.016, F.S.; increasing penalties; creating
16 ss. 838.022, 838.20, 838.21, 838.22, 838.23,
17 838.24, F.S.; providing criminal penalties for
18 official misconduct, criminal misuse of
19 official position, disclosure or use of
20 confidential criminal justice information,
21 bid-tampering, and perjury by a public servant
22 in an official proceeding; providing for
23 evidence of governmental function or service;
24 amending s. 921.0022, F.S.; deleting specified
25 felonies from and adding specified felonies to
26 the Criminal Punishment Code; repealing s.
27 838.15, F.S., relating to commercial bribe
28 receiving; repealing s. 838.16, F.S., relating
29 to commercial bribery; repealing s. 839.25,
30 F.S., relating to official misconduct;
31 providing an effective date.

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

2
3 Section 1. Paragraph (a) of subsection (1) of section
4 16.56, Florida Statutes, is amended to read:

5 16.56 Office of Statewide Prosecution.--

6 (1) There is created in the Department of Legal
7 Affairs an Office of Statewide Prosecution. The office shall
8 be a separate "budget entity" as that term is defined in
9 chapter 216. The office may:

10 (a) Investigate and prosecute the offenses of:

11 1. Bribery, any violation of chapter 838, burglary,
12 criminal usury, extortion, gambling, kidnapping, larceny,
13 murder, prostitution, perjury, robbery, carjacking, and
14 home-invasion robbery;

15 2. Any crime involving narcotic or other dangerous
16 drugs;

17 3. Any violation of the provisions of the Florida RICO
18 (Racketeer Influenced and Corrupt Organization) Act, including
19 any offense listed in the definition of racketeering activity
20 in s. 895.02(1)(a), providing such listed offense is
21 investigated in connection with a violation of s. 895.03 and
22 is charged in a separate count of an information or indictment
23 containing a count charging a violation of s. 895.03, the
24 prosecution of which listed offense may continue independently
25 if the prosecution of the violation of s. 895.03 is terminated
26 for any reason;

27 4. Any violation of the provisions of the Florida
28 Anti-Fencing Act;

29 5. Any violation of the provisions of the Florida
30 Antitrust Act of 1980, as amended;

31

1 6. Any crime involving, or resulting in, fraud or
2 deceit upon any person; or

3 7. Any violation of s. 847.0135, relating to computer
4 pornography and child exploitation prevention, or any offense
5 related to a violation of s. 847.0135,

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

14 Section 2. Paragraph (g) of subsection (1) and
15 paragraph (e) of subsection (3) of section 287.133, are
16 amended to read:

17 287.133 Public entity crime; denial or revocation of
18 the right to transact business with public entities.--

19 (1) As used in this section:

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

31 (3)

1 (e)1. Upon receipt of information regarding a finding
2 of guilt against a person of a public entity crime, the
3 department shall determine whether the finding has been
4 recorded with the clerk of the court in which the finding was
5 obtained, and if so, shall immediately place the name of that
6 person or affiliate on the convicted vendor list. The
7 department shall also notify the person or affiliate of his or
8 her right to a hearing, the procedure that must be followed,
9 and the applicable time requirements. If the person or
10 affiliate does not request a hearing, the name of that person
11 or affiliate remains on the convicted vendor list unless the
12 finding of guilt is overturned on appeal or has been sealed or
13 expunged by a court of competent jurisdiction. As used in this
14 paragraph, the term "finding of guilt" means any determination
15 of guilt as a result of a trial or the entry of a plea of
16 guilty or nolo contendere, regardless of whether adjudication
17 is withheld, and includes, but is not limited to, a finding of
18 guilt by a federal or military tribunal, including a
19 court-martial conducted by the Armed Forces of the United
20 States, and includes a finding of guilt by a court of any
21 state of the United States.~~Upon receiving reasonable~~
22 ~~information from any source that a person has been convicted,~~
23 ~~the department shall investigate the information and determine~~
24 ~~whether good cause exists to place that person or an affiliate~~
25 ~~of that person on the convicted vendor list. If good cause~~
26 ~~exists, the department shall notify the person or affiliate in~~
27 ~~writing of its intent to place the name of that person or~~
28 ~~affiliate on the convicted vendor list, and of the person's or~~
29 ~~affiliate's right to a hearing, the procedure that must be~~
30 ~~followed, and the applicable time requirements. If the person~~
31 ~~or affiliate does not request a hearing, the department shall~~

1 ~~enter a final order placing the name of the person or~~
2 ~~affiliate on the convicted vendor list. No person or~~
3 ~~affiliate may be placed on the convicted vendor list without~~
4 ~~receiving an individual notice of intent from the department.~~

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

16 a. The petition shall be filed with the department.
17 The department shall be a party to the proceeding for all
18 purposes.

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

27 c. The administrative law judge shall conduct the
28 formal hearing within 30 days after being assigned, unless
29 otherwise stipulated by the parties.

30 d. Within 30 days after the formal hearing or receipt
31 of the hearing transcript, whichever is later, the

1 administrative law judge shall enter a final order, which
2 shall consist of findings of fact, conclusions of law,
3 interpretation of agency rules, and any other information
4 required by law or rule to be contained in the final order.
5 Such final order shall place or not place the person or
6 affiliate on the convicted vendor list.

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

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

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

19 a. Whether the person or affiliate committed a public
20 entity crime.

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

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

24 d. Prompt or voluntary payment of any damages or
25 penalty as a result of the conviction.

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

1 f. Disassociation from any other persons or affiliates
2 convicted of the public entity crime.

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

5 h. Reinstatement or clemency in any jurisdiction in
6 relation to the public entity crime at issue in the
7 proceeding.

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

10 j. The needs of public entities for additional
11 competition in the procurement of goods and services in their
12 respective markets.

13 k. Mitigation based upon any demonstration of good
14 citizenship by the person or affiliate.

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

1 affiliate of such person, that person or affiliate shall not
2 be placed on the convicted vendor list.

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

16 Section 3. Subsection (1) of section 837.02, Florida
17 Statutes, is amended to read:

18 837.02 Perjury in official proceedings.--

19 (1) Except as provided in subsection (2) and s.
20 838.24, whoever makes a false statement, which he or she does
21 not believe to be true, under oath in an official proceeding
22 in regard to any material matter, commits a felony of the
23 third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

25 Section 4. Section 838.0105, Florida Statutes, is
26 created to read:

27 838.0105 Short title.--This chapter may be cited as
28 the "Citizens' Right to Honest Government Act."

29 Section 5. Section 838.014, Florida Statutes, is
30 amended to read:

31

1 838.014 Definitions.--As used in ~~For the purposes of~~
2 this chapter, the term ~~unless a different meaning plainly is~~
3 ~~required:~~

4 (1) "Benefit" means gain or advantage, or anything
5 regarded by the person to be benefited as a gain or advantage,
6 including the doing of an act beneficial to any person in
7 whose welfare he or she is interested, including any
8 commission, gift, gratuity, property, commercial interest, or
9 any other thing of economic value.

10 (2) "Corruptly" or "corrupt intent" means done with
11 knowledge that the act is wrongful and with improper motives.

12 (3) "Harm" means pecuniary or other loss,
13 disadvantage, or injury to the person affected, including
14 loss, disadvantage, or injury to any other person in whose
15 welfare he or she is interested.

16 (4) "Public servant" means:

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

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

20 (c) Any officer, director, partner, manager,
21 representative, or employee of a nongovernmental entity that
22 is authorized by law or contract to perform a governmental
23 function or provide a governmental service on behalf of a
24 state, county, municipal, or special district agency or
25 entity;

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

28 (e) Any person, except a witness, who acts as a
29 master, receiver, auditor, juror, arbitrator, umpire, referee,
30 consultant, or hearing officer while performing a governmental
31 function; or

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

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

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

11 ~~(4) "Public servant" means any public officer, agent,~~
12 ~~or employee of government, whether elected or appointed,~~
13 ~~including, but not limited to, any executive, legislative, or~~
14 ~~judicial officer; any person who holds an office or position~~
15 ~~in a political party or political party committee, whether~~
16 ~~elected or appointed; and any person participating as a~~
17 ~~special master, receiver, auditor, juror, arbitrator, umpire,~~
18 ~~referee, consultant, administrative law judge, hearing~~
19 ~~officer, or hearing examiner, or person acting on behalf of~~
20 ~~any of these, in performing a governmental function; but the~~
21 ~~term does not include witnesses. Such term shall include a~~
22 ~~candidate for election or appointment to any such office,~~
23 ~~including any individual who seeks or intends to occupy any~~
24 ~~such office. It shall include any person appointed to any of~~
25 ~~the foregoing offices or employments before and after he or~~
26 ~~she qualifies.~~

27 ~~(5) "Government" includes the state government and any~~
28 ~~city or county government or any branch, political~~
29 ~~subdivision, or agency of the state, county, or city~~
30 ~~government.~~

31

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

6 Section 6. Subsection (3) of section 838.015, Florida
7 Statutes, is amended to read:

8 838.015 Bribery.--

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

12 Section 7. Subsection (4) of section 838.016, Florida
13 Statutes, is amended to read:

14 838.016 Unlawful compensation or reward for official
15 behavior.--

16 (4) Whoever violates the provisions of this section is
17 ~~shall be~~ guilty of a felony of the second ~~third~~ degree,
18 punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084.

20 Section 8. Sections 838.022, 838.20, 838.21, 838.22,
21 838.23, and 838.24, Florida Statutes, are created to read:

22 838.022 Official misconduct.--

23 (1) It is unlawful for a public servant, with corrupt
24 intent to obtain a benefit for any person or to cause harm to
25 another, to:

26 (a) Falsify, or cause another person to falsify, any
27 official record or official document;

28 (b) Conceal, cover up, destroy, mutilate, or alter any
29 official record or official document or cause another person
30 to perform such an act;

31

1 (c) Obstruct, delay, or prevent the communication of
2 information relating to the commission of a felony that
3 directly involves or affects the public agency or public
4 entity served by the public servant; or

5 (d) Refrain from performing a mandatory constitutional
6 or statutory duty or cause another person to refrain from
7 performing such duty.

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

11 838.20 Criminal misuse of official position.--

12 (1) It is unlawful for any public servant to corruptly
13 use or attempt to use his or her official position or any
14 public property or public resource that is within his or her
15 trust, to:

16 (a) Establish any business relationship between the
17 public servant's own agency and any business entity in which
18 the public servant receives or has an expectation of receiving
19 a benefit; or

20 (b) Perform his or her official duties to secure for
21 himself or herself a benefit that is not generally available
22 to the public.

23 (2) Any person who violates this section commits a
24 felony of the second degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

26 838.21 Disclosure or use of confidential criminal
27 justice information.--It is unlawful for a public servant,
28 with corrupt intent to obtain a benefit for any person or to
29 cause harm to another, to disclose active criminal
30 investigative or intelligence information as defined in
31 chapter 119 or to disclose or use information regarding either

1 the efforts to secure or the issuance of a warrant, subpoena,
2 or other court process or court order relating to a criminal
3 investigation or criminal prosecution when such information is
4 not available to the general public and is gained by reason of
5 the public servant's official position. Any person who
6 violates this section commits a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084.

9 838.22 Evidence of performing a governmental function
10 or providing a governmental service.--Use of the term
11 "privatize" or "privatization" in a statute, ordinance,
12 resolution, or contract providing for a private entity to
13 perform a function or provide a service on behalf of a state,
14 county, municipal, or special district agency or entity gives
15 rise to an inference that the private entity is performing a
16 governmental function or providing a governmental service.

17 838.23 Bid-tampering.--

18 (1) As used in this section, the term:

19 (a) "Bid" includes a response to an "invitation to
20 bid" or "request for proposal" as those terms are defined in
21 s. 287.012.

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

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

28 (2) It is unlawful for a public servant, with corrupt
29 intent to influence or attempt to influence the competitive
30 bidding process undertaken by any state, county, municipal, or
31

1 special district agency, or any other public entity, for the
2 procurement of commodities or services, to:

3 (a) Disclose material information concerning a bid or
4 other aspects of the competitive bidding process when such
5 information is not publicly disclosed.

6 (b) Establish a bid specification, contract
7 specification, request for proposal, invitation to bid, or
8 other material aspect of the competitive bidding process that
9 provides an unfair competitive advantage to any person who
10 submits a bid.

11 (c) Alter or amend a submitted bid, documents or other
12 materials supporting a submitted bid, or bid results for the
13 purpose of providing an unfair competitive advantage to any
14 person who submits a bid.

15 (3) It is unlawful for a public servant, with corrupt
16 intent to obtain a benefit for any person or to cause unlawful
17 harm to another, to circumvent a competitive bidding process
18 required by law or rule by using a sole-source contract for
19 commodities or services.

20 (4) It is unlawful for any person to knowingly agree,
21 conspire, combine, or confederate, directly or indirectly,
22 with a public servant to violate subsection (2) or subsection
23 (3).

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

28 (6) Any person who violates this section commits a
29 felony of the second degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.

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1 838.24 Perjury by public servant in an official
2 proceeding.--

3 (1) A public servant who under oath in an official
4 proceeding makes a false statement, which he or she does not
5 believe to be true, in regard to any material matter that
6 relates to his or her duties or actions as a public servant
7 commits a felony of the second degree, punishable as provided
8 in s. 775.082, s. 775.083, or s. 775.084.

9 (2) As used in this section, the terms "official
10 proceeding," "oath," and "material matter" have the same
11 meanings as provided in s. 837.011.

12 (3) Knowledge of the materiality of the statement is
13 not an element of the crime of perjury under this section, and
14 the defendant's mistaken belief that the statement was not
15 material is not a defense.

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

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.

1	212.15(2)(b)	3rd	Failure to remit sales taxes,
2			amount greater than \$300 but less
3			than \$20,000.
4	319.30(5)	3rd	Sell, exchange, give away
5			certificate of title or
6			identification number plate.
7	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
8			odometer.
9	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
10			registration license plates or
11			validation stickers.
12	322.212(1)	3rd	Possession of forged, stolen,
13			counterfeit, or unlawfully issued
14			driver's license; possession of
15			simulated identification.
16	322.212(4)	3rd	Supply or aid in supplying
17			unauthorized driver's license or
18			identification card.
19	322.212(5)(a)	3rd	False application for driver's
20			license or identification card.
21	370.13(3)(a)	3rd	Molest any stone crab trap, line,
22			or buoy which is property of
23			licenseholder.
24	370.135(1)	3rd	Molest any blue crab trap, line,
25			or buoy which is property of
26			licenseholder.
27	372.663(1)	3rd	Poach any alligator or
28			crocodilia.
29			
30			
31			

1	414.39(2)	3rd	Unauthorized use, possession,
2			forgery, or alteration of food
3			stamps, Medicaid ID, value
4			greater than \$200.
5	414.39(3)(a)	3rd	Fraudulent misappropriation of
6			public assistance funds by
7			employee/official, value more
8			than \$200.
9	443.071(1)	3rd	False statement or representation
10			to obtain or increase
11			unemployment compensation
12			benefits.
13	458.327(1)(a)	3rd	Unlicensed practice of medicine.
14	466.026(1)(a)	3rd	Unlicensed practice of dentistry
15			or dental hygiene.
16	509.151(1)	3rd	Defraud an innkeeper, food or
17			lodging value greater than \$300.
18	517.302(1)	3rd	Violation of the Florida
19			Securities and Investor
20			Protection Act.
21	562.27(1)	3rd	Possess still or still apparatus.
22	713.69	3rd	Tenant removes property upon
23			which lien has accrued, value
24			more than \$50.
25	812.014(3)(c)	3rd	Petit theft (3rd conviction);
26			theft of any property not
27			specified in subsection (2).
28	812.081(2)	3rd	Unlawfully makes or causes to be
29			made a reproduction of a trade
30			secret.
31			

1	815.04(4)(a)	3rd	Offense against intellectual
2			property (i.e., computer
3			programs, data).
4	817.52(2)	3rd	Hiring with intent to defraud,
5			motor vehicle services.
6	826.01	3rd	Bigamy.
7	828.122(3)	3rd	Fighting or baiting animals.
8	831.04(1)	3rd	Any erasure, alteration, etc., of
9			any replacement deed, map, plat,
10			or other document listed in s.
11			92.28.
12	831.31(1)(a)	3rd	Sell, deliver, or possess
13			counterfeit controlled
14			substances, all but s. 893.03(5)
15			drugs.
16	832.041(1)	3rd	Stopping payment with intent to
17			defraud \$150 or more.
18	832.05		
19	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
20			worthless checks \$150 or more or
21			obtaining property in return for
22			worthless check \$150 or more.
23	838.015(3)	3rd	Bribery.
24	838.016(1)	3rd	Public servant receiving unlawful
25			compensation.
26	838.15(2)	3rd	Commercial bribe receiving.
27	838.16	3rd	Commercial bribery.
28	843.18	3rd	Fleeing by boat to elude a law
29			enforcement officer.
30			
31			

1	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
2			lewd, etc., material (2nd
3			conviction).
4	849.01	3rd	Keeping gambling house.
5	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
6			or assist therein, conduct or
7			advertise drawing for prizes, or
8			dispose of property or money by
9			means of lottery.
10	849.23	3rd	Gambling-related machines;
11			"common offender" as to property
12			rights.
13	849.25(2)	3rd	Engaging in bookmaking.
14	860.08	3rd	Interfere with a railroad signal.
15	860.13(1)(a)	3rd	Operate aircraft while under the
16			influence.
17	893.13(2)(a)2.	3rd	Purchase of cannabis.
18	893.13(6)(a)	3rd	Possession of cannabis (more than
19			20 grams).
20	893.13(7)(a)10.	3rd	Affix false or forged label to
21			package of controlled substance.
22	934.03(1)(a)	3rd	Intercepts, or procures any other
23			person to intercept, any wire or
24			oral communication.
25			(f) LEVEL 6
26	316.027(1)(b)	2nd	Accident involving death, failure
27			to stop; leaving scene.
28	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
29			conviction.
30	775.0875(1)	3rd	Taking firearm from law
31			enforcement officer.

1	775.21(10)	3rd	Sexual predators; failure to
2			register; failure to renew
3			driver's license or
4			identification card.
5	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
6			without intent to kill.
7	784.021(1)(b)	3rd	Aggravated assault; intent to
8			commit felony.
9	784.041	3rd	Felony battery.
10	784.048(3)	3rd	Aggravated stalking; credible
11			threat.
12	784.048(5)	3rd	Aggravated stalking of person
13			under 16.
14	784.07(2)(c)	2nd	Aggravated assault on law
15			enforcement officer.
16	784.08(2)(b)	2nd	Aggravated assault on a person 65
17			years of age or older.
18	784.081(2)	2nd	Aggravated assault on specified
19			official or employee.
20	784.082(2)	2nd	Aggravated assault by detained
21			person on visitor or other
22			detainee.
23	784.083(2)	2nd	Aggravated assault on code
24			inspector.
25	787.02(2)	3rd	False imprisonment; restraining
26			with purpose other than those in
27			s. 787.01.
28	790.115(2)(d)	2nd	Discharging firearm or weapon on
29			school property.
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1	790.161(2)	2nd	Make, possess, or throw
2			destructive device with intent to
3			do bodily harm or damage
4			property.
5	790.164(1)	2nd	False report of deadly explosive
6			or act of arson or violence to
7			state property.
8	790.19	2nd	Shooting or throwing deadly
9			missiles into dwellings, vessels,
10			or vehicles.
11	794.011(8)(a)	3rd	Solicitation of minor to
12			participate in sexual activity by
13			custodial adult.
14	794.05(1)	2nd	Unlawful sexual activity with
15			specified minor.
16	800.04(5)(d)	3rd	Lewd or lascivious molestation;
17			victim 12 years of age or older
18			but less than 16 years; offender
19			less than 18 years.
20	800.04(6)(b)	2nd	Lewd or lascivious conduct;
21			offender 18 years of age or
22			older.
23	806.031(2)	2nd	Arson resulting in great bodily
24			harm to firefighter or any other
25			person.
26	810.02(3)(c)	2nd	Burglary of occupied structure;
27			unarmed; no assault or battery.
28	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
29			but less than \$100,000, grand
30			theft in 2nd degree.
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1	812.13(2)(c)	2nd	Robbery, no firearm or other
2			weapon (strong-arm robbery).
3	817.034(4)(a)1.	1st	Communications fraud, value
4			greater than \$50,000.
5	817.4821(5)	2nd	Possess cloning paraphernalia
6			with intent to create cloned
7			cellular telephones.
8	825.102(1)	3rd	Abuse of an elderly person or
9			disabled adult.
10	825.102(3)(c)	3rd	Neglect of an elderly person or
11			disabled adult.
12	825.1025(3)	3rd	Lewd or lascivious molestation of
13			an elderly person or disabled
14			adult.
15	825.103(2)(c)	3rd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at less than \$20,000.
18	827.03(1)	3rd	Abuse of a child.
19	827.03(3)(c)	3rd	Neglect of a child.
20	827.071(2)&(3)	2nd	Use or induce a child in a sexual
21			performance, or promote or direct
22			such performance.
23	836.05	2nd	Threats; extortion.
24	836.10	2nd	Written threats to kill or do
25			bodily injury.
26	<u>838.21</u>	<u>3rd</u>	<u>Disclosure of confidential</u>
27			<u>criminal justice information.</u>
28	843.12	3rd	Aids or assists person to escape.
29	847.0135(3)	3rd	Solicitation of a child, via a
30			computer service, to commit an
31			unlawful sex act.

1	914.23	2nd	Retaliation against a witness,
2			victim, or informant, with bodily
3			injury.
4	943.0435(9)	3rd	Sex offenders; failure to comply
5			with reporting requirements.
6	944.35(3)(a)2.	3rd	Committing malicious battery upon
7			or inflicting cruel or inhuman
8			treatment on an inmate or
9			offender on community
10			supervision, resulting in great
11			bodily harm.
12	944.40	2nd	Escapes.
13	944.46	3rd	Harboring, concealing, aiding
14			escaped prisoners.
15	944.47(1)(a)5.	2nd	Introduction of contraband
16			(firearm, weapon, or explosive)
17			into correctional facility.
18	951.22(1)	3rd	Intoxicating drug, firearm, or
19			weapon introduced into county
20			facility.
21			(g) LEVEL 7
22	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
23			injury.
24	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
25			bodily injury.
26	402.319(2)	2nd	Misrepresentation and negligence
27			or intentional act resulting in
28			great bodily harm, permanent
29			disfiguration, permanent
30			disability, or death.
31	409.920(2)	3rd	Medicaid provider fraud.

1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	782.051(3)	2nd	Attempted felony murder of a
8			person by a person other than the
9			perpetrator or the perpetrator of
10			an attempted felony.
11	782.07(1)	2nd	Killing of a human being by the
12			act, procurement, or culpable
13			negligence of another
14			(manslaughter).
15	782.071	2nd	Killing of human being or viable
16			fetus by the operation of a motor
17			vehicle in a reckless manner
18			(vehicular homicide).
19	782.072	2nd	Killing of a human being by the
20			operation of a vessel in a
21			reckless manner (vessel
22			homicide).
23	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
24			causing great bodily harm or
25			disfigurement.
26	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
27			weapon.
28	784.045(1)(b)	2nd	Aggravated battery; perpetrator
29			aware victim pregnant.
30	784.048(4)	3rd	Aggravated stalking; violation of
31			injunction or court order.

1	784.07(2)(d)	1st	Aggravated battery on law
2			enforcement officer.
3	784.08(2)(a)	1st	Aggravated battery on a person 65
4			years of age or older.
5	784.081(1)	1st	Aggravated battery on specified
6			official or employee.
7	784.082(1)	1st	Aggravated battery by detained
8			person on visitor or other
9			detainee.
10	784.083(1)	1st	Aggravated battery on code
11			inspector.
12	790.07(4)	1st	Specified weapons violation
13			subsequent to previous conviction
14			of s. 790.07(1) or (2).
15	790.16(1)	1st	Discharge of a machine gun under
16			specified circumstances.
17	796.03	2nd	Procuring any person under 16
18			years for prostitution.
19	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
20			victim less than 12 years of age;
21			offender less than 18 years.
22	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
23			victim 12 years of age or older
24			but less than 16 years; offender
25			18 years or older.
26	806.01(2)	2nd	Maliciously damage structure by
27			fire or explosive.
28	810.02(3)(a)	2nd	Burglary of occupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
31			unarmed; no assault or battery.

1	810.02(3)(d)	2nd	Burglary of occupied conveyance;
2			unarmed; no assault or battery.
3	812.014(2)(a)	1st	Property stolen, valued at
4			\$100,000 or more; property stolen
5			while causing other property
6			damage; 1st degree grand theft.
7	812.019(2)	1st	Stolen property; initiates,
8			organizes, plans, etc., the theft
9			of property and traffics in
10			stolen property.
11	812.131(2)(a)	2nd	Robbery by sudden snatching.
12	812.133(2)(b)	1st	Carjacking; no firearm, deadly
13			weapon, or other weapon.
14	825.102(3)(b)	2nd	Neglecting an elderly person or
15			disabled adult causing great
16			bodily harm, disability, or
17			disfigurement.
18	825.1025(2)	2nd	Lewd or lascivious battery upon
19			an elderly person or disabled
20			adult.
21	825.103(2)(b)	2nd	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$20,000 or more, but
24			less than \$100,000.
25	827.03(3)(b)	2nd	Neglect of a child causing great
26			bodily harm, disability, or
27			disfigurement.
28	827.04(3)	3rd	Impregnation of a child under 16
29			years of age by person 21 years
30			of age or older.
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1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	<u>838.015</u>	<u>2nd</u>	<u>Bribery.</u>
5	<u>838.016</u>	<u>2nd</u>	<u>Unlawful compensation or reward</u>
6			<u>for official behavior.</u>
7	<u>838.021(3)(a)</u>	<u>2nd</u>	<u>Corruption by threat against</u>
8			<u>public servant.</u>
9	<u>838.022</u>	<u>2nd</u>	<u>Official misconduct.</u>
10	<u>838.20</u>	<u>2nd</u>	<u>Criminal misuse of official</u>
11			<u>position.</u>
12	<u>838.23</u>	<u>2nd</u>	<u>Bid-tampering.</u>
13	<u>838.24</u>	<u>2nd</u>	<u>Perjury by a public servant in an</u>
14			<u>official proceeding.</u>
15	872.06	2nd	Abuse of a dead human body.
16	893.13(1)(c)1.	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 a child care
21			facility or school.
22	893.13(1)(e)	1st	Sell, manufacture, or deliver
23			cocaine or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), or (2)(b), within
26			1,000 feet of property used for
27			religious services or a specified
28			business site.
29	893.13(4)(a)	1st	Deliver to minor cocaine (or
30			other s. 893.03(1)(a), (1)(b),
31			(1)(d), (2)(a), or (2)(b) drugs).

1 893.135(1)(a)1. 1st Trafficking in cannabis, more
2 than 50 lbs., less than 2,000
3 lbs.
4 893.135
5 (1)(b)1.a. 1st Trafficking in cocaine, more than
6 28 grams, less than 200 grams.
7 893.135
8 (1)(c)1.a. 1st Trafficking in illegal drugs,
9 more than 4 grams, less than 14
10 grams.
11 893.135
12 (1)(d)1. 1st Trafficking in phencyclidine,
13 more than 28 grams, less than 200
14 grams.
15 893.135(1)(e)1. 1st Trafficking in methaqualone, more
16 than 200 grams, less than 5
17 kilograms.
18 893.135(1)(f)1. 1st Trafficking in amphetamine, more
19 than 14 grams, less than 28
20 grams.
21 893.135
22 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
23 grams or more, less than 14
24 grams.
25 Section 10. Sections 838.15, 838.16, and 839.25,
26 Florida Statutes, are repealed.
27 Section 11. This act shall take effect October 1,
28 2000.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 946

- Repeals s. 839.25, F.S., which makes it a 3rd degree felony to engage in "official misconduct." This section has been superseded by the creation of a new section on official misconduct (s. 838.022, F.S.), which carries a 2nd degree felony penalty.
- Provides that knowledge of the materiality of a statement given under oath is not an element of the newly created crime of perjury by a public servant.
- Makes various technical changes, including: correcting a statutory cite in the title; deleting obsolete cross-references in the Offense Severity Ranking Chart; and changing a cross-reference in the Offense Severity Ranking Chart.