

By Senator Sebesta

20-568-01

See HB 3

1 A bill to be entitled
2 An act relating to offenses by public servants;
3 creating the "Citizens' Right to Honest
4 Government Act"; amending s. 16.56, F.S.;
5 authorizing the Office of Statewide Prosecution
6 to prosecute violations of ch. 838, F.S.;
7 amending s. 838.014, F.S.; revising, providing,
8 and deleting definitions; amending ss. 838.015
9 and 838.016, F.S.; increasing penalties;
10 creating ss. 838.022, 838.20, 838.21, 838.22,
11 838.23, and 838.24, F.S.; providing criminal
12 penalties for official misconduct, criminal
13 misuse of official position, disclosure or use
14 of confidential criminal justice information,
15 and bid tampering; providing status of
16 confidential informants or confidential
17 sources; authorizing public servants who are
18 subjected to an investigation for official
19 misconduct to recover attorney's fees; amending
20 s. 837.02, F.S.; providing a criminal penalty
21 for perjury in an official proceeding by a
22 public servant; amending s. 921.0022, F.S.;
23 deleting specified felonies from and adding
24 specified felonies to the Criminal Punishment
25 Code offense severity ranking chart; repealing
26 s. 838.15, F.S., relating to commercial bribe
27 receiving; repealing s. 838.16, F.S., relating
28 to commercial bribery; amending ss. 112.3173
29 and 121.091, F.S.; deleting cross-references,
30 to conform; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. This act may be cited as the "Citizens'
4 Right to Honest Government Act."

5 Section 2. Paragraph (a) of subsection (1) of section
6 16.56, Florida Statutes, is amended to read:

7 16.56 Office of Statewide Prosecution.--

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

12 (a) Investigate and prosecute the offenses of:

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

17 2. Any crime involving narcotic or other dangerous
18 drugs;

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

29 4. Any violation of the provisions of the Florida
30 Anti-Fencing Act;

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1 5. Any violation of the provisions of the Florida
2 Antitrust Act of 1980, as amended;

3 6. Any crime involving, or resulting in, fraud or
4 deceit upon any person; or

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

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

16 Section 3. 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 "with corrupt intent" means done
28 with knowledge that the act is wrongful.

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

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

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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 6. Sections 838.022, 838.20, 838.21, 838.22,
8 838.23, and 838.24, 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; or

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.

22 (2) For the purposes of this section:

23 (a) The term "public servant" does not include a
24 candidate who does not otherwise qualify as a public servant.

25 (b) An official record or official document includes
26 only public records.

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

30 838.20 Criminal misuse of official position.--

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1 (1) It is unlawful for any public officer or public
2 employee to corruptly use or attempt to use his or her
3 official position, or any public property or public resource
4 within his or her trust, to:

5 (a) Establish any business relationship between the
6 public officer's or public employee's own agency and any
7 business entity in which the public officer or public employee
8 receives or has an expectation of receiving a benefit; or

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

12 (2) Any person who violates this section commits a
13 felony of the second degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084.

15 838.21 Disclosure or use of confidential criminal
16 justice information.--It is unlawful for a public servant,
17 with intent to obstruct, impede, or prevent a criminal
18 investigation or a criminal prosecution, to disclose active
19 criminal investigative or intelligence information as defined
20 in chapter 119 or to disclose or use information regarding
21 either the efforts to secure or the issuance of a warrant,
22 subpoena, or other court process or court order relating to a
23 criminal investigation or criminal prosecution when such
24 information is not available to the general public and is
25 gained by reason of the public servant's official position.

26 Any person who violates this section commits a felony of the
27 third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084.

29 838.22 Bid tampering.--

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

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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.

12 838.23 Status of confidential informants and
13 confidential sources.--A person who provides information
14 regarding suspected criminal violations committed by a public
15 servant as defined in s. 838.014 shall be considered a
16 confidential informant or confidential source pursuant to s.
17 119.07(3)(c).

18 838.24 Attorney's fees.--If a public servant is
19 arrested or prosecuted for an alleged violation of this
20 chapter and either the criminal charges are dismissed or the
21 public servant is acquitted, the public servant may petition
22 the employing public agency to award attorney's fees for the
23 costs incurred by the public servant in defending against
24 those charges. The employing public agency shall award
25 attorney's fees to the public servant upon a finding that the
26 public servant's actions arose out of or in connection with
27 the performance of his or her official duties and served a
28 public purpose.

29 Section 7. Section 837.02, Florida Statutes, is
30 amended to read:

31 837.02 Perjury in official proceedings.--

1 (1) Except as provided in subsections ~~subsection~~ (2)
2 and (3), whoever makes a false statement, which he or she does
3 not believe to be true, under oath in an official proceeding
4 in regard to any material matter, commits a felony of the
5 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

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

12 (3) Any public servant, as defined in s. 838.014, who
13 makes a false statement, which he or she does not believe to
14 be true, under oath in an official proceeding in regard to any
15 material matter that relates to his or her duties or actions
16 as a public servant commits a felony of the second degree,
17 punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084.

19 ~~(4)~~(3) Knowledge of the materiality of the statement
20 is not an element of the crime of perjury under subsection
21 (1), or subsection (2), or subsection (3), and the defendant's
22 mistaken belief that the statement was not material is not a
23 defense.

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

27 921.0022 Criminal Punishment Code; offense severity
28 ranking chart.--

29 (3) OFFENSE SEVERITY RANKING CHART
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1	Florida	Felony	
2	Statute	Degree	Description
3			
4			(a) LEVEL 1
5	24.118(3)(a)	3rd	Counterfeit or altered state
6			lottery ticket.
7	212.054(2)(b)	3rd	Discretionary sales surtax;
8			limitations, administration, and
9			collection.
10	212.15(2)(b)	3rd	Failure to remit sales taxes,
11			amount greater than \$300 but less
12			than \$20,000.
13	319.30(5)	3rd	Sell, exchange, give away
14			certificate of title or
15			identification number plate.
16	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
17			odometer.
18	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
19			registration license plates or
20			validation stickers.
21	322.212(1)	3rd	Possession of forged, stolen,
22			counterfeit, or unlawfully issued
23			driver's license; possession of
24			simulated identification.
25	322.212(4)	3rd	Supply or aid in supplying
26			unauthorized driver's license or
27			identification card.
28	322.212(5)(a)	3rd	False application for driver's
29			license or identification card.
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1	370.13(3)(a)	3rd	Molest any stone crab trap, line,
2			or buoy which is property of
3			licenseholder.
4	370.135(1)	3rd	Molest any blue crab trap, line,
5			or buoy which is property of
6			licenseholder.
7	372.663(1)	3rd	Poach any alligator or
8			crocodilia.
9	414.39(2)	3rd	Unauthorized use, possession,
10			forgery, or alteration of food
11			stamps, Medicaid ID, value
12			greater than \$200.
13	414.39(3)(a)	3rd	Fraudulent misappropriation of
14			public assistance funds by
15			employee/official, value more
16			than \$200.
17	443.071(1)	3rd	False statement or representation
18			to obtain or increase
19			unemployment compensation
20			benefits.
21	509.151(1)	3rd	Defraud an innkeeper, food or
22			lodging value greater than \$300.
23	517.302(1)	3rd	Violation of the Florida
24			Securities and Investor
25			Protection Act.
26	562.27(1)	3rd	Possess still or still apparatus.
27	713.69	3rd	Tenant removes property upon
28			which lien has accrued, value
29			more than \$50.
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1	812.014(3)(c)	3rd	Petit theft (3rd conviction);
2			theft of any property not
3			specified in subsection (2).
4	812.081(2)	3rd	Unlawfully makes or causes to be
5			made a reproduction of a trade
6			secret.
7	815.04(4)(a)	3rd	Offense against intellectual
8			property (i.e., computer
9			programs, data).
10	817.52(2)	3rd	Hiring with intent to defraud,
11			motor vehicle services.
12	826.01	3rd	Bigamy.
13	828.122(3)	3rd	Fighting or baiting animals.
14	831.04(1)	3rd	Any erasure, alteration, etc., of
15			any replacement deed, map, plat,
16			or other document listed in s.
17			92.28.
18	831.31(1)(a)	3rd	Sell, deliver, or possess
19			counterfeit controlled
20			substances, all but s. 893.03(5)
21			drugs.
22	832.041(1)	3rd	Stopping payment with intent to
23			defraud \$150 or more.
24	832.05		
25	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
26			worthless checks \$150 or more or
27			obtaining property in return for
28			worthless check \$150 or more.
29	838.015(3)	3rd	Bribery.
30	838.016(1)	3rd	Public servant receiving unlawful
31			compensation.

1	838.15(2)	3rd	Commercial bribe receiving.
2	838.16	3rd	Commercial bribery.
3	843.18	3rd	Fleeing by boat to elude a law
4			enforcement officer.
5	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
6			lewd, etc., material (2nd
7			conviction).
8	849.01	3rd	Keeping gambling house.
9	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
10			or assist therein, conduct or
11			advertise drawing for prizes, or
12			dispose of property or money by
13			means of lottery.
14	849.23	3rd	Gambling-related machines;
15			"common offender" as to property
16			rights.
17	849.25(2)	3rd	Engaging in bookmaking.
18	860.08	3rd	Interfere with a railroad signal.
19	860.13(1)(a)	3rd	Operate aircraft while under the
20			influence.
21	893.13(2)(a)2.	3rd	Purchase of cannabis.
22	893.13(6)(a)	3rd	Possession of cannabis (more than
23			20 grams).
24	893.13(7)(a)10.	3rd	Affix false or forged label to
25			package of controlled substance.
26	934.03(1)(a)	3rd	Intercepts, or procures any other
27			person to intercept, any wire or
28			oral communication.
29			(f) LEVEL 6
30	316.027(1)(b)	2nd	Accident involving death, failure
31			to stop; leaving scene.

1	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
2			conviction.
3	775.0875(1)	3rd	Taking firearm from law
4			enforcement officer.
5	775.21(10)	3rd	Sexual predators; failure to
6			register; failure to renew
7			driver's license or
8			identification card.
9	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
10			without intent to kill.
11	784.021(1)(b)	3rd	Aggravated assault; intent to
12			commit felony.
13	784.041	3rd	Felony battery.
14	784.048(3)	3rd	Aggravated stalking; credible
15			threat.
16	784.048(5)	3rd	Aggravated stalking of person
17			under 16.
18	784.07(2)(c)	2nd	Aggravated assault on law
19			enforcement officer.
20	784.08(2)(b)	2nd	Aggravated assault on a person 65
21			years of age or older.
22	784.081(2)	2nd	Aggravated assault on specified
23			official or employee.
24	784.082(2)	2nd	Aggravated assault by detained
25			person on visitor or other
26			detainee.
27	784.083(2)	2nd	Aggravated assault on code
28			inspector.
29	787.02(2)	3rd	False imprisonment; restraining
30			with purpose other than those in
31			s. 787.01.

1	790.115(2)(d)	2nd	Discharging firearm or weapon on
2			school property.
3	790.161(2)	2nd	Make, possess, or throw
4			destructive device with intent to
5			do bodily harm or damage
6			property.
7	790.164(1)	2nd	False report of deadly explosive
8			or act of arson or violence to
9			state property.
10	790.19	2nd	Shooting or throwing deadly
11			missiles into dwellings, vessels,
12			or vehicles.
13	794.011(8)(a)	3rd	Solicitation of minor to
14			participate in sexual activity by
15			custodial adult.
16	794.05(1)	2nd	Unlawful sexual activity with
17			specified minor.
18	800.04(5)(d)	3rd	Lewd or lascivious molestation;
19			victim 12 years of age or older
20			but less than 16 years; offender
21			less than 18 years.
22	800.04(6)(b)	2nd	Lewd or lascivious conduct;
23			offender 18 years of age or
24			older.
25	806.031(2)	2nd	Arson resulting in great bodily
26			harm to firefighter or any other
27			person.
28	810.02(3)(c)	2nd	Burglary of occupied structure;
29			unarmed; no assault or battery.
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1	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
2			but less than \$100,000, grand
3			theft in 2nd degree.
4	812.13(2)(c)	2nd	Robbery, no firearm or other
5			weapon (strong-arm robbery).
6	817.034(4)(a)1.	1st	Communications fraud, value
7			greater than \$50,000.
8	817.4821(5)	2nd	Possess cloning paraphernalia
9			with intent to create cloned
10			cellular telephones.
11	825.102(1)	3rd	Abuse of an elderly person or
12			disabled adult.
13	825.102(3)(c)	3rd	Neglect of an elderly person or
14			disabled adult.
15	825.1025(3)	3rd	Lewd or lascivious molestation of
16			an elderly person or disabled
17			adult.
18	825.103(2)(c)	3rd	Exploiting an elderly person or
19			disabled adult and property is
20			valued at less than \$20,000.
21	827.03(1)	3rd	Abuse of a child.
22	827.03(3)(c)	3rd	Neglect of a child.
23	827.071(2)&(3)	2nd	Use or induce a child in a sexual
24			performance, or promote or direct
25			such performance.
26	836.05	2nd	Threats; extortion.
27	836.10	2nd	Written threats to kill or do
28			bodily injury.
29	<u>838.21</u>	<u>3rd</u>	<u>Disclosure or use of confidential</u>
30			<u>criminal justice information.</u>
31	843.12	3rd	Aids or assists person to escape.

1	847.0135(3)	3rd	Solicitation of a child, via a
2			computer service, to commit an
3			unlawful sex act.
4	914.23	2nd	Retaliation against a witness,
5			victim, or informant, with bodily
6			injury.
7	943.0435(9)	3rd	Sex offenders; failure to comply
8			with reporting requirements.
9	944.35(3)(a)2.	3rd	Committing malicious battery upon
10			or inflicting cruel or inhuman
11			treatment on an inmate or
12			offender on community
13			supervision, resulting in great
14			bodily harm.
15	944.40	2nd	Escapes.
16	944.46	3rd	Harboring, concealing, aiding
17			escaped prisoners.
18	944.47(1)(a)5.	2nd	Introduction of contraband
19			(firearm, weapon, or explosive)
20			into correctional facility.
21	951.22(1)	3rd	Intoxicating drug, firearm, or
22			weapon introduced into county
23			facility.
24			(g) LEVEL 7
25	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
26			injury.
27	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
28			bodily injury.
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1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	456.065(2)	3rd	Practicing a health care
8			profession without a license.
9	456.065(2)	2nd	Practicing a health care
10			profession without a license
11			which results in serious bodily
12			injury.
13	458.327(1)	3rd	Practicing medicine without a
14			license.
15	459.013(1)	3rd	Practicing osteopathic medicine
16			without a license.
17	460.411(1)	3rd	Practicing chiropractic medicine
18			without a license.
19	461.012(1)	3rd	Practicing podiatric medicine
20			without a license.
21	462.17	3rd	Practicing naturopathy without a
22			license.
23	463.015(1)	3rd	Practicing optometry without a
24			license.
25	464.016(1)	3rd	Practicing nursing without a
26			license.
27	465.015(2)	3rd	Practicing pharmacy without a
28			license.
29	466.026(1)	3rd	Practicing dentistry or dental
30			hygiene without a license.
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1	467.201	3rd	Practicing midwifery without a
2			license.
3	468.366	3rd	Delivering respiratory care
4			services without a license.
5	483.828(1)	3rd	Practicing as clinical laboratory
6			personnel without a license.
7	483.901(9)	3rd	Practicing medical physics
8			without a license.
9	484.053	3rd	Dispensing hearing aids without a
10			license.
11	494.0018(2)	1st	Conviction of any violation of
12			ss. 494.001-494.0077 in which the
13			total money and property
14			unlawfully obtained exceeded
15			\$50,000 and there were five or
16			more victims.
17	560.123(8)(b)1.	3rd	Failure to report currency or
18			payment instruments exceeding
19			\$300 but less than \$20,000 by
20			money transmitter.
21	560.125(5)(a)	3rd	Money transmitter business by
22			unauthorized person, currency or
23			payment instruments exceeding
24			\$300 but less than \$20,000.
25	655.50(10)(b)1.	3rd	Failure to report financial
26			transactions exceeding \$300 but
27			less than \$20,000 by financial
28			institution.
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1	782.051(3)	2nd	Attempted felony murder of a
2			person by a person other than the
3			perpetrator or the perpetrator of
4			an attempted felony.
5	782.07(1)	2nd	Killing of a human being by the
6			act, procurement, or culpable
7			negligence of another
8			(manslaughter).
9	782.071	2nd	Killing of human being or viable
10			fetus by the operation of a motor
11			vehicle in a reckless manner
12			(vehicular homicide).
13	782.072	2nd	Killing of a human being by the
14			operation of a vessel in a
15			reckless manner (vessel
16			homicide).
17	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
18			causing great bodily harm or
19			disfigurement.
20	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
21			weapon.
22	784.045(1)(b)	2nd	Aggravated battery; perpetrator
23			aware victim pregnant.
24	784.048(4)	3rd	Aggravated stalking; violation of
25			injunction or court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.08(2)(a)	1st	Aggravated battery on a person 65
29			years of age or older.
30	784.081(1)	1st	Aggravated battery on specified
31			official or employee.

1	784.082(1)	1st	Aggravated battery by detained
2			person on visitor or other
3			detainee.
4	784.083(1)	1st	Aggravated battery on code
5			inspector.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	790.166(3)	2nd	Possessing, selling, using, or
12			attempting to use a hoax weapon
13			of mass destruction.
14	796.03	2nd	Procuring any person under 16
15			years for prostitution.
16	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
17			victim less than 12 years of age;
18			offender less than 18 years.
19	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			18 years or older.
23	806.01(2)	2nd	Maliciously damage structure by
24			fire or explosive.
25	810.02(3)(a)	2nd	Burglary of occupied dwelling;
26			unarmed; no assault or battery.
27	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(d)	2nd	Burglary of occupied conveyance;
30			unarmed; no assault or battery.
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1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.131(2)(a)	2nd	Robbery by sudden snatching.
10	812.133(2)(b)	1st	Carjacking; no firearm, deadly
11			weapon, or other weapon.
12	825.102(3)(b)	2nd	Neglecting an elderly person or
13			disabled adult causing great
14			bodily harm, disability, or
15			disfigurement.
16	825.1025(2)	2nd	Lewd or lascivious battery upon
17			an elderly person or disabled
18			adult.
19	825.103(2)(b)	2nd	Exploiting an elderly person or
20			disabled adult and property is
21			valued at \$20,000 or more, but
22			less than \$100,000.
23	827.03(3)(b)	2nd	Neglect of a child causing great
24			bodily harm, disability, or
25			disfigurement.
26	827.04(3)	3rd	Impregnation of a child under 16
27			years of age by person 21 years
28			of age or older.
29	<u>837.02(3)</u>	<u>2nd</u>	<u>Perjury by a public servant in an</u>
30			<u>official proceeding.</u>
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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>Unlawful harm to a public</u>
8			<u>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>838.22</u>	<u>2nd</u>	<u>Bid tampering.</u>
13	872.06	2nd	Abuse of a dead human body.
14	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
15			cocaine (or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4.) within 1,000 feet of a
19			child care facility or school.
20	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
21			cocaine or other drug prohibited
22			under s. 893.03(1)(a), (1)(b),
23			(1)(d), (2)(a), (2)(b), or
24			(2)(c)4., within 1,000 feet of
25			property used for religious
26			services or a specified business
27			site.
28	893.13(4)(a)	1st	Deliver to minor cocaine (or
29			other s. 893.03(1)(a), (1)(b),
30			(1)(d), (2)(a), (2)(b), or
31			(2)(c)4. 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	893.135		
26	(1)(h)1.a.	1st	Trafficking in
27			gamma-hydroxybutyric acid (GHB),
28			1 kilogram or more, less than 5
29			kilograms.
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1 893.135
2 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1
3 kilogram or more, less than 5
4 kilograms.
5 893.135
6 (1)(j)2.a. 1st Trafficking in Phenethylamines,
7 10 grams or more, less than 200
8 grams.
9 896.101(5)(a) 3rd Money laundering, financial
10 transactions exceeding \$300 but
11 less than \$20,000.
12 896.104(4)(a)1. 3rd Structuring transactions to evade
13 reporting or registration
14 requirements, financial
15 transactions exceeding \$300 but
16 less than \$20,000.
17 Section 9. Sections 838.15 and 838.16, Florida
18 Statutes, are repealed.
19 Section 10. Paragraph (e) of subsection (2) of section
20 112.3173, Florida Statutes, is amended to read:
21 112.3173 Felonies involving breach of public trust and
22 other specified offenses by public officers and employees;
23 forfeiture of retirement benefits.--
24 (2) DEFINITIONS.--As used in this section, unless the
25 context otherwise requires, the term:
26 (e) "Specified offense" means:
27 1. The committing, aiding, or abetting of an
28 embezzlement of public funds;
29 2. The committing, aiding, or abetting of any theft by
30 a public officer or employee from his or her employer;
31

1 3. Bribery in connection with the employment of a
2 public officer or employee;

3 4. Any felony specified in chapter 838, ~~except ss.~~
4 ~~838.15 and 838.16;~~

5 5. The committing of an impeachable offense; or

6 6. The committing of any felony by a public officer or
7 employee who, willfully and with intent to defraud the public
8 or the public agency for which the public officer or employee
9 acts or in which he or she is employed of the right to receive
10 the faithful performance of his or her duty as a public
11 officer or employee, realizes or obtains, or attempts to
12 realize or obtain, a profit, gain, or advantage for himself or
13 herself or for some other person through the use or attempted
14 use of the power, rights, privileges, duties, or position of
15 his or her public office or employment position.

16 Section 11. Paragraph (f) of subsection (5) of section
17 121.091, Florida Statutes, is amended to read:

18 121.091 Benefits payable under the system.--Benefits
19 may not be paid under this section unless the member has
20 terminated employment as provided in s. 121.021(39)(a) or
21 begun participation in the Deferred Retirement Option Program
22 as provided in subsection (13), and a proper application has
23 been filed in the manner prescribed by the department. The
24 department may cancel an application for retirement benefits
25 when the member or beneficiary fails to timely provide the
26 information and documents required by this chapter and the
27 department's rules. The department shall adopt rules
28 establishing procedures for application for retirement
29 benefits and for the cancellation of such application when the
30 required information or documents are not received.

31

1 (5) TERMINATION BENEFITS.--A member whose employment
2 is terminated prior to retirement retains membership rights to
3 previously earned member-noncontributory service credit, and
4 to member-contributory service credit, if the member leaves
5 the member contributions on deposit in his or her retirement
6 account. If a terminated member receives a refund of member
7 contributions, such member may reinstate membership rights to
8 the previously earned service credit represented by the refund
9 by completing 1 year of creditable service and repaying the
10 refunded member contributions, plus interest.

11 (f) Any member who has been found guilty by a verdict
12 of a jury, or by the court trying the case without a jury, of
13 committing, aiding, or abetting any embezzlement or theft from
14 his or her employer, bribery in connection with the
15 employment, or other felony specified in chapter 838, ~~except~~
16 ~~ss. 838.15 and 838.16~~, committed prior to retirement, or who
17 has entered a plea of guilty or of nolo contendere to such
18 crime, or any member whose employment is terminated by reason
19 of the member's admitted commitment, aiding, or abetting of an
20 embezzlement or theft from his or her employer, bribery, or
21 other felony specified in chapter 838, except ss. 838.15 and
22 838.16, shall forfeit all rights and benefits under this
23 chapter, except the return of his or her accumulated
24 contributions as of the date of termination.

25 Section 12. This act shall take effect October 1,
26 2001.

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LEGISLATIVE SUMMARY

Creates the "Citizens' Right to Honest Government Act."
Authorizes the Office of Statewide Prosecution to
investigate and prosecute violations of ch. 838, F.S.
Revises, provides, and deletes definitions. Increases the
penalties for bribery and unlawful compensation or reward
for official behavior to a second-degree felony. Provides
penalties for official misconduct, criminal misuse of
official position, disclosure or use of confidential
criminal justice information by a public servant, and bid
tampering. Provides status of confidential informants or
confidential sources. Authorizes public servants who are
subjected to an investigation for official misconduct to
recover attorney's fees. 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 commercial bribe receiving and commercial
bribery.