

By Representative Ball

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 definitions;
16 providing status of confidential informants or
17 confidential sources; authorizing public
18 servants who are subjected to an investigation
19 for official misconduct to recover attorney's
20 fees; amending s. 837.02, F.S.; providing a
21 criminal penalty for perjury in an official
22 proceeding by a public servant; amending s.
23 905.34, F.S.; expanding jurisdiction of the
24 statewide grand jury to include violations of
25 ch. 838, F.S.; amending s. 921.0022, F.S.;
26 deleting specified felonies from and adding
27 specified felonies to the Criminal Punishment
28 Code offense severity ranking chart; repealing
29 s. 838.15, F.S., relating to commercial bribe
30 receiving; repealing s. 838.16, F.S., relating
31 to commercial bribery; repealing s. 839.25,

1 F.S., relating to official misconduct; amending
2 ss. 112.3173, 112.534, 117.01, and 121.091,
3 F.S.; deleting and conforming cross references
4 to changes made by the act; providing an
5 effective date.

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

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

11 Section 2. Paragraph (a) of subsection (1) of section
12 16.56, Florida Statutes, is amended to read:

13 16.56 Office of Statewide Prosecution.--

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

18 (a) Investigate and prosecute the offenses of:

19 1. Bribery, any violation of chapter 838, burglary,
20 criminal usury, extortion, gambling, kidnapping, larceny,
21 murder, prostitution, perjury, robbery, carjacking, and
22 home-invasion robbery;

23 2. Any crime involving narcotic or other dangerous
24 drugs;

25 3. Any violation of the provisions of the Florida RICO
26 (Racketeer Influenced and Corrupt Organization) Act, including
27 any offense listed in the definition of racketeering activity
28 in s. 895.02(1)(a), providing such listed offense is
29 investigated in connection with a violation of s. 895.03 and
30 is charged in a separate count of an information or indictment
31 containing a count charging a violation of s. 895.03, the

1 prosecution of which listed offense may continue independently
2 if the prosecution of the violation of s. 895.03 is terminated
3 for any reason;

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

6 5. Any violation of the provisions of the Florida
7 Antitrust Act of 1980, as amended;

8 6. Any crime involving, or resulting in, fraud or
9 deceit upon any person;

10 7. Any violation of s. 847.0135, relating to computer
11 pornography and child exploitation prevention, or any offense
12 related to a violation of s. 847.0135; or

13 8. Any violation of the provisions of chapter 815;

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15 or any attempt, solicitation, or conspiracy to commit any of
16 the crimes specifically enumerated above. The office shall
17 have such power only when any such offense is occurring, or
18 has occurred, in two or more judicial circuits as part of a
19 related transaction, or when any such offense is connected
20 with an organized criminal conspiracy affecting two or more
21 judicial circuits.

22 Section 3. Section 838.014, Florida Statutes, is
23 amended to read:

24 838.014 Definitions.--As used in ~~For the purposes of~~
25 this chapter, the term ~~unless a different meaning plainly is~~
26 ~~required:~~

27 (1) "Benefit" means gain or advantage, or anything
28 regarded by the person to be benefited as a gain or advantage,
29 including the doing of an act beneficial to any person in
30 whose welfare he or she is interested, including any

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1 commission, gift, gratuity, property, commercial interest, or
2 any other thing of economic value.
3 (2) "Corruptly" or "with corrupt intent" means done
4 with knowledge that the act is wrongful.
5 (3) "Harm" means pecuniary or other loss,
6 disadvantage, or injury to the person affected, including
7 loss, disadvantage, or injury to any other person in whose
8 welfare he or she is interested.
9 (4) "Public servant" means:
10 (a) Any officer or employee of a state, county,
11 municipal, or special district agency or entity;
12 (b) Any legislative or judicial officer or employee;
13 (c) Any officer, director, partner, manager,
14 representative, or employee of a nongovernmental entity that
15 is authorized by law or contract to perform a governmental
16 function or provide a governmental service on behalf of a
17 state, county, municipal, or special district agency or entity
18 to the extent that the individual's conduct relates to the
19 performance of the governmental function or provision of the
20 governmental service;
21 (d) Any person who holds an office in a political
22 party or political party committee;
23 (e) Any person, except a witness, who acts as a
24 master, receiver, auditor, juror, arbitrator, umpire, referee,
25 consultant, or hearing officer while performing a governmental
26 function; or
27 (f) A candidate for election or appointment to any of
28 the positions listed in this subsection, or an individual who
29 has been elected to, but has yet to officially assume the
30 responsibilities of, public office.
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1 ~~(2) "Pecuniary benefit" is benefit in the form of any~~
2 ~~commission, gift, gratuity, property, commercial interest, or~~
3 ~~any other thing of economic value.~~

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

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

23 ~~(5) "Government" includes the state government and any~~
24 ~~city or county government or any branch, political~~
25 ~~subdivision, or agency of the state, county, or city~~
26 ~~government.~~

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

1 Section 4. Subsection (3) of section 838.015, Florida
2 Statutes, is amended to read:

3 838.015 Bribery.--

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

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

9 838.016 Unlawful compensation or reward for official
10 behavior.--

11 (4) Whoever violates the provisions of this section
12 commits ~~shall be guilty of~~ a felony of the second ~~third~~
13 degree, punishable as provided in s. 775.082, s. 775.083, or
14 s. 775.084.

15 Section 6. Sections 838.022, 838.20, 838.21, 838.22,
16 838.23, and 838.24, Florida Statutes, are created to read:

17 838.022 Official misconduct.--

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

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

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

26 (c) Obstruct, delay, or prevent the communication of
27 information relating to the commission of a felony that
28 directly involves or affects the public agency or public
29 entity served by the public servant.

30 (2) For the purposes of this section:

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1 (a) The term "public servant," as defined in s.
2 838.014, shall not include a candidate who does not otherwise
3 qualify as a public servant.

4 (b) An official record or official document includes
5 only public records.

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

9 838.20 Criminal misuse of official position.--

10 (1) It is unlawful for any public servant, as defined
11 in s. 838.014(4)(a) and (b), to corruptly use or attempt to
12 use his or her official position, or any public property or
13 public resource that is within his or her trust, to:

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

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

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

24 838.21 Disclosure or use of confidential criminal
25 justice information.--It is unlawful for a public servant,
26 with intent to obstruct, impede, or prevent a criminal
27 investigation or a criminal prosecution, to disclose active
28 criminal investigative or intelligence information as defined
29 in chapter 119 or to disclose or use information regarding
30 either the efforts to secure or the issuance of a warrant,
31 subpoena, or other court process or court order relating to a

1 criminal investigation or criminal prosecution when such
2 information is not available to the general public and is
3 gained by reason of the public servant's official position.
4 Any person who violates this section commits a felony of the
5 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.
7 838.22 Bid tampering.--
8 (1) As used in this section, the term:
9 (a) "Bid" includes a response to an "invitation to
10 bid" or "request for proposals" as those terms are defined in
11 s. 287.012.
12 (b) "Commodity" means any goods, merchandise, wares,
13 produce, chose in action, land, article of commerce, or other
14 tangible or intangible property, real, personal, or mixed, for
15 use, consumption, production, enjoyment, or resale.
16 (c) "Service" means any kind of activity performed in
17 whole or in part for economic benefit.
18 (2) It is unlawful for a public servant, with corrupt
19 intent to influence or attempt to influence the competitive
20 bidding process undertaken by any state, county, municipal, or
21 special district agency, or any other public entity, for the
22 procurement of commodities or services, to:
23 (a) Disclose material information concerning a bid or
24 other aspects of the competitive bidding process when such
25 information is not publicly disclosed.
26 (b) Establish a bid specification, contract
27 specification, request for proposal, invitation to bid, or
28 other material aspect of the competitive bidding process that
29 provides an unfair competitive advantage to any person who
30 submits a bid.
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1 (c) Alter or amend a submitted bid, documents or other
2 materials supporting a submitted bid, or bid results for the
3 purpose of providing an unfair competitive advantage to any
4 person who submits a bid.

5 (3) It is unlawful for a public servant, with corrupt
6 intent to obtain a benefit for any person or to cause unlawful
7 harm to another, to circumvent a competitive bidding process
8 required by law or rule by using a sole-source contract for
9 commodities or services.

10 (4) It is unlawful for any person to knowingly agree,
11 conspire, combine, or confederate, directly or indirectly,
12 with a public servant to violate subsection (2) or subsection
13 (3).

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

18 (6) Any person who violates this section commits a
19 felony of the second degree, punishable as provided in s.
20 775.082, s. 775.083, or s. 775.084.

21 838.23 Status of confidential informants and
22 confidential sources.--A person who provides information
23 regarding suspected criminal violations committed by a public
24 servant as defined in s. 838.014 shall be considered a
25 confidential informant or confidential source pursuant to s.
26 119.07(3)(c).

27 838.24 Attorney's fees.--If a public servant is
28 arrested or prosecuted for an alleged violation of this
29 chapter and either the criminal charges are dismissed or the
30 public servant is acquitted, the public servant may petition
31 the employing public agency to award reasonable attorney's

1 fees and costs incurred by the public servant in defending
2 against those charges. The employing public agency shall award
3 attorney's fees to the public servant upon a finding that the
4 public servant's actions arose out of or in connection with
5 the performance of his or her official duties and served a
6 public purpose.

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

9 837.02 Perjury in official proceedings.--

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

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

21 (3) Any public servant, as defined in s. 838.014, who
22 makes a false statement, which he or she does not believe to
23 be true, under oath in an official proceeding in regard to any
24 material matter that relates to his or her duties or actions
25 as a public servant commits a felony of the second degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084.

28 ~~(4)~~~~(3)~~ Knowledge of the materiality of the statement
29 is not an element of the crime of perjury under subsection
30 (1), ~~or~~ subsection (2), or subsection (3) and the defendant's
31

1 mistaken belief that the statement was not material is not a
2 defense.

3 Section 8. Subsection (1) of section 905.34, Florida
4 Statutes, is amended to read:

5 905.34 Powers and duties; law applicable.--The
6 jurisdiction of a statewide grand jury impaneled under this
7 chapter shall extend throughout the state. The subject matter
8 jurisdiction of the statewide grand jury shall be limited to
9 the offenses of:

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

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15 or any attempt, solicitation, or conspiracy to commit any
16 violation of the crimes specifically enumerated above, when
17 any such offense is occurring, or has occurred, in two or more
18 judicial circuits as part of a related transaction or when any
19 such offense is connected with an organized criminal
20 conspiracy affecting two or more judicial circuits. The
21 statewide grand jury may return indictments and presentments
22 irrespective of the county or judicial circuit where the
23 offense is committed or triable. If an indictment is
24 returned, it shall be certified and transferred for trial to
25 the county where the offense was committed. The powers and
26 duties of, and law applicable to, county grand juries shall
27 apply to a statewide grand jury except when such powers,
28 duties, and law are inconsistent with the provisions of ss.
29 905.31-905.40.

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

4 921.0022 Criminal Punishment Code; offense severity
5 ranking chart.--

6 (3) OFFENSE SEVERITY RANKING CHART

7	8 Florida	9 Felony	
10	11 Statute	12 Degree	13 Description
14			(a) LEVEL 1
15	24.118(3)(a)	3rd	Counterfeit or altered state
16			lottery ticket.
17	212.054(2)(b)	3rd	Discretionary sales surtax;
18			limitations, administration, and
19			collection.
20	212.15(2)(b)	3rd	Failure to remit sales taxes,
21			amount greater than \$300 but less
22			than \$20,000.
23	319.30(5)	3rd	Sell, exchange, give away
24			certificate of title or
25			identification number plate.
26	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
27			odometer.
28	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
29			registration license plates or
30			validation stickers.
31	322.212(1)	3rd	Possession of forged, stolen,
			counterfeit, or unlawfully issued
			driver's license; possession of
			simulated identification.

1	322.212(4)	3rd	Supply or aid in supplying
2			unauthorized driver's license or
3			identification card.
4	322.212(5)(a)	3rd	False application for driver's
5			license or identification card.
6	370.13(3)(a)	3rd	Molest any stone crab trap, line,
7			or buoy which is property of
8			licenseholder.
9	370.135(1)	3rd	Molest any blue crab trap, line,
10			or buoy which is property of
11			licenseholder.
12	372.663(1)	3rd	Poach any alligator or
13			crocodilia.
14	414.39(2)	3rd	Unauthorized use, possession,
15			forgery, or alteration of food
16			stamps, Medicaid ID, value
17			greater than \$200.
18	414.39(3)(a)	3rd	Fraudulent misappropriation of
19			public assistance funds by
20			employee/official, value more
21			than \$200.
22	443.071(1)	3rd	False statement or representation
23			to obtain or increase
24			unemployment compensation
25			benefits.
26	509.151(1)	3rd	Defraud an innkeeper, food or
27			lodging value greater than \$300.
28	517.302(1)	3rd	Violation of the Florida
29			Securities and Investor
30			Protection Act.
31	562.27(1)	3rd	Possess still or still apparatus.

1	713.69	3rd	Tenant removes property upon
2			which lien has accrued, value
3			more than \$50.
4	812.014(3)(c)	3rd	Petit theft (3rd conviction);
5			theft of any property not
6			specified in subsection (2).
7	812.081(2)	3rd	Unlawfully makes or causes to be
8			made a reproduction of a trade
9			secret.
10	815.04(4)(a)	3rd	Offense against intellectual
11			property (i.e., computer
12			programs, data).
13	817.52(2)	3rd	Hiring with intent to defraud,
14			motor vehicle services.
15	826.01	3rd	Bigamy.
16	828.122(3)	3rd	Fighting or baiting animals.
17	831.04(1)	3rd	Any erasure, alteration, etc., of
18			any replacement deed, map, plat,
19			or other document listed in s.
20			92.28.
21	831.31(1)(a)	3rd	Sell, deliver, or possess
22			counterfeit controlled
23			substances, all but s. 893.03(5)
24			drugs.
25	832.041(1)	3rd	Stopping payment with intent to
26			defraud \$150 or more.
27	832.05		
28	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
29			worthless checks \$150 or more or
30			obtaining property in return for
31			worthless check \$150 or more.

1	838.015(3)	3rd	Bribery.
2	838.016(1)	3rd	Public servant receiving unlawful
3			compensation.
4	838.15(2)	3rd	Commercial bribe receiving.
5	838.16	3rd	Commercial bribery.
6	843.18	3rd	Fleeing by boat to elude a law
7			enforcement officer.
8	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
9			lewd, etc., material (2nd
10			conviction).
11	849.01	3rd	Keeping gambling house.
12	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
13			or assist therein, conduct or
14			advertise drawing for prizes, or
15			dispose of property or money by
16			means of lottery.
17	849.23	3rd	Gambling-related machines;
18			"common offender" as to property
19			rights.
20	849.25(2)	3rd	Engaging in bookmaking.
21	860.08	3rd	Interfere with a railroad signal.
22	860.13(1)(a)	3rd	Operate aircraft while under the
23			influence.
24	893.13(2)(a)2.	3rd	Purchase of cannabis.
25	893.13(6)(a)	3rd	Possession of cannabis (more than
26			20 grams).
27	893.13(7)(a)10.	3rd	Affix false or forged label to
28			package of controlled substance.
29	934.03(1)(a)	3rd	Intercepts, or procures any other
30			person to intercept, any wire or
31			oral communication.

1			(f) LEVEL 6
2	316.027(1)(b)	2nd	Accident involving death, failure
3			to stop; leaving scene.
4	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
5			conviction.
6	775.0875(1)	3rd	Taking firearm from law
7			enforcement officer.
8	775.21(10)	3rd	Sexual predators; failure to
9			register; failure to renew
10			driver's license or
11			identification card.
12	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
13			without intent to kill.
14	784.021(1)(b)	3rd	Aggravated assault; intent to
15			commit felony.
16	784.041	3rd	Felony battery.
17	784.048(3)	3rd	Aggravated stalking; credible
18			threat.
19	784.048(5)	3rd	Aggravated stalking of person
20			under 16.
21	784.07(2)(c)	2nd	Aggravated assault on law
22			enforcement officer.
23	784.074(1)(b)	2nd	Aggravated assault on sexually
24			violent predators facility staff.
25	784.08(2)(b)	2nd	Aggravated assault on a person 65
26			years of age or older.
27	784.081(2)	2nd	Aggravated assault on specified
28			official or employee.
29	784.082(2)	2nd	Aggravated assault by detained
30			person on visitor or other
31			detainee.

1	784.083(2)	2nd	Aggravated assault on code
2			inspector.
3	787.02(2)	3rd	False imprisonment; restraining
4			with purpose other than those in
5			s. 787.01.
6	790.115(2)(d)	2nd	Discharging firearm or weapon on
7			school property.
8	790.161(2)	2nd	Make, possess, or throw
9			destructive device with intent to
10			do bodily harm or damage
11			property.
12	790.164(1)	2nd	False report of deadly explosive
13			or act of arson or violence to
14			state property.
15	790.19	2nd	Shooting or throwing deadly
16			missiles into dwellings, vessels,
17			or vehicles.
18	794.011(8)(a)	3rd	Solicitation of minor to
19			participate in sexual activity by
20			custodial adult.
21	794.05(1)	2nd	Unlawful sexual activity with
22			specified minor.
23	800.04(5)(d)	3rd	Lewd or lascivious molestation;
24			victim 12 years of age or older
25			but less than 16 years; offender
26			less than 18 years.
27	800.04(6)(b)	2nd	Lewd or lascivious conduct;
28			offender 18 years of age or
29			older.
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1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.014(2)(b)2.	2nd	Property stolen cargo valued at
10			less than \$50,000, grand theft in
11			2nd degree.
12	812.015(9)	2nd	Retail theft; property stolen
13			\$300 or more; second or
14			subsequent conviction.
15	812.13(2)(c)	2nd	Robbery, no firearm or other
16			weapon (strong-arm robbery).
17	817.034(4)(a)1.	1st	Communications fraud, value
18			greater than \$50,000.
19	817.4821(5)	2nd	Possess cloning paraphernalia
20			with intent to create cloned
21			cellular telephones.
22	825.102(1)	3rd	Abuse of an elderly person or
23			disabled adult.
24	825.102(3)(c)	3rd	Neglect of an elderly person or
25			disabled adult.
26	825.1025(3)	3rd	Lewd or lascivious molestation of
27			an elderly person or disabled
28			adult.
29	825.103(2)(c)	3rd	Exploiting an elderly person or
30			disabled adult and property is
31			valued at less than \$20,000.

1	827.03(1)	3rd	Abuse of a child.
2	827.03(3)(c)	3rd	Neglect of a child.
3	827.071(2)&(3)	2nd	Use or induce a child in a sexual
4			performance, or promote or direct
5			such performance.
6	836.05	2nd	Threats; extortion.
7	836.10	2nd	Written threats to kill or do
8			bodily injury.
9	<u>838.21</u>	<u>3rd</u>	<u>Disclosure or use of confidential</u>
10			<u>criminal justice information.</u>
11	843.12	3rd	Aids or assists person to escape.
12	847.0135(3)	3rd	Solicitation of a child, via a
13			computer service, to commit an
14			unlawful sex act.
15	914.23	2nd	Retaliation against a witness,
16			victim, or informant, with bodily
17			injury.
18	943.0435(9)	3rd	Sex offenders; failure to comply
19			with reporting requirements.
20	944.35(3)(a)2.	3rd	Committing malicious battery upon
21			or inflicting cruel or inhuman
22			treatment on an inmate or
23			offender on community
24			supervision, resulting in great
25			bodily harm.
26	944.40	2nd	Escapes.
27	944.46	3rd	Harboring, concealing, aiding
28			escaped prisoners.
29	944.47(1)(a)5.	2nd	Introduction of contraband
30			(firearm, weapon, or explosive)
31			into correctional facility.

1	951.22(1)	3rd	Intoxicating drug, firearm, or
2			weapon introduced into county
3			facility.
4			(g) LEVEL 7
5	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
6			injury.
7	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
8			bodily injury.
9	402.319(2)	2nd	Misrepresentation and negligence
10			or intentional act resulting in
11			great bodily harm, permanent
12			disfiguration, permanent
13			disability, or death.
14	409.920(2)	3rd	Medicaid provider fraud.
15	456.065(2)	3rd	Practicing a health care
16			profession without a license.
17	456.065(2)	2nd	Practicing a health care
18			profession without a license
19			which results in serious bodily
20			injury.
21	458.327(1)	3rd	Practicing medicine without a
22			license.
23	459.013(1)	3rd	Practicing osteopathic medicine
24			without a license.
25	460.411(1)	3rd	Practicing chiropractic medicine
26			without a license.
27	461.012(1)	3rd	Practicing podiatric medicine
28			without a license.
29	462.17	3rd	Practicing naturopathy without a
30			license.
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1	463.015(1)	3rd	Practicing optometry without a
2			license.
3	464.016(1)	3rd	Practicing nursing without a
4			license.
5	465.015(2)	3rd	Practicing pharmacy without a
6			license.
7	466.026(1)	3rd	Practicing dentistry or dental
8			hygiene without a license.
9	467.201	3rd	Practicing midwifery without a
10			license.
11	468.366	3rd	Delivering respiratory care
12			services without a license.
13	483.828(1)	3rd	Practicing as clinical laboratory
14			personnel without a license.
15	483.901(9)	3rd	Practicing medical physics
16			without a license.
17	484.013(1)(c)	3rd	Preparing or dispensing optical
18			devices without a prescription.
19	484.053	3rd	Dispensing hearing aids without a
20			license.
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	560.123(8)(b)1.	3rd	Failure to report currency or
28			payment instruments exceeding
29			\$300 but less than \$20,000 by
30			money transmitter.
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1	560.125(5)(a)	3rd	Money transmitter business by
2			unauthorized person, currency or
3			payment instruments exceeding
4			\$300 but less than \$20,000.
5	655.50(10)(b)1.	3rd	Failure to report financial
6			transactions exceeding \$300 but
7			less than \$20,000 by financial
8			institution.
9	782.051(3)	2nd	Attempted felony murder of a
10			person by a person other than the
11			perpetrator or the perpetrator of
12			an attempted felony.
13	782.07(1)	2nd	Killing of a human being by the
14			act, procurement, or culpable
15			negligence of another
16			(manslaughter).
17	782.071	2nd	Killing of human being or viable
18			fetus by the operation of a motor
19			vehicle in a reckless manner
20			(vehicular homicide).
21	782.072	2nd	Killing of a human being by the
22			operation of a vessel in a
23			reckless manner (vessel
24			homicide).
25	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
26			causing great bodily harm or
27			disfigurement.
28	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
29			weapon.
30	784.045(1)(b)	2nd	Aggravated battery; perpetrator
31			aware victim pregnant.

1	784.048(4)	3rd	Aggravated stalking; violation of
2			injunction or court order.
3	784.07(2)(d)	1st	Aggravated battery on law
4			enforcement officer.
5	784.074(1)(a)	1st	Aggravated battery on sexually
6			violent predators facility staff.
7	784.08(2)(a)	1st	Aggravated battery on a person 65
8			years of age or older.
9	784.081(1)	1st	Aggravated battery on specified
10			official or employee.
11	784.082(1)	1st	Aggravated battery by detained
12			person on visitor or other
13			detainee.
14	784.083(1)	1st	Aggravated battery on code
15			inspector.
16	790.07(4)	1st	Specified weapons violation
17			subsequent to previous conviction
18			of s. 790.07(1) or (2).
19	790.16(1)	1st	Discharge of a machine gun under
20			specified circumstances.
21	790.166(3)	2nd	Possessing, selling, using, or
22			attempting to use a hoax weapon
23			of mass destruction.
24	796.03	2nd	Procuring any person under 16
25			years for prostitution.
26	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
27			victim less than 12 years of age;
28			offender less than 18 years.
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1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; cargo stolen
15			valued at \$50,000, or more;
16			property stolen while causing
17			other property damage; 1st degree
18			grand theft.
19	812.014(2)(b)2.	2nd	Property stolen, emergency
20			medical equipment; 2nd degree
21			grand theft.
22	812.019(2)	1st	Stolen property; initiates,
23			organizes, plans, etc., the theft
24			of property and traffics in
25			stolen property.
26	812.131(2)(a)	2nd	Robbery by sudden snatching.
27	812.133(2)(b)	1st	Carjacking; no firearm, deadly
28			weapon, or other weapon.
29	817.234(11)(c)	1st	Insurance fraud; property value
30			\$100,000 or more.
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1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	<u>837.02(3)</u>	<u>2nd</u>	<u>Perjury by a public servant in an</u>
19			<u>official proceeding.</u>
20	837.05(2)	3rd	Giving false information about
21			alleged capital felony to a law
22			enforcement officer.
23	<u>838.015</u>	<u>2nd</u>	<u>Bribery.</u>
24	<u>838.016</u>	<u>2nd</u>	<u>Unlawful compensation or reward</u>
25			<u>for official behavior.</u>
26	<u>838.021(3)(a)</u>	<u>2nd</u>	<u>Unlawful harm to a public</u>
27			<u>servant.</u>
28	<u>838.022</u>	<u>2nd</u>	<u>Official misconduct.</u>
29	<u>838.20</u>	<u>2nd</u>	<u>Criminal misuse of official</u>
30			<u>position.</u>
31	<u>838.22</u>	<u>2nd</u>	<u>Bid tampering.</u>

1	872.06	2nd	Abuse of a dead human body.
2	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
3			cocaine (or other drug prohibited
4			under s. 893.03(1)(a), (1)(b),
5			(1)(d), (2)(a), (2)(b), or
6			(2)(c)4.) within 1,000 feet of a
7			child care facility or school.
8	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
9			cocaine or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4., within 1,000 feet of
13			property used for religious
14			services or a specified business
15			site.
16	893.13(4)(a)	1st	Deliver to minor cocaine (or
17			other s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), (2)(b), or
19			(2)(c)4. drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 25 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
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1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
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1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 10. Sections 838.15, 838.16, and 839.25,
7 Florida Statutes, are repealed.

8 Section 11. Paragraph (e) of subsection (2) of section
9 112.3173, Florida Statutes, is amended to read:

10 112.3173 Felonies involving breach of public trust and
11 other specified offenses by public officers and employees;
12 forfeiture of retirement benefits.--

13 (2) DEFINITIONS.--As used in this section, unless the
14 context otherwise requires, the term:

15 (e) "Specified offense" means:

16 1. The committing, aiding, or abetting of an
17 embezzlement of public funds;

18 2. The committing, aiding, or abetting of any theft by
19 a public officer or employee from his or her employer;

20 3. Bribery in connection with the employment of a
21 public officer or employee;

22 4. Any felony specified in chapter 838, ~~except ss.~~
23 ~~838.15 and 838.16;~~

24 5. The committing of an impeachable offense; or

25 6. The committing of any felony by a public officer or
26 employee who, willfully and with intent to defraud the public
27 or the public agency for which the public officer or employee
28 acts or in which he or she is employed of the right to receive
29 the faithful performance of his or her duty as a public
30 officer or employee, realizes or obtains, or attempts to
31 realize or obtain, a profit, gain, or advantage for himself or

1 herself or for some other person through the use or attempted
2 use of the power, rights, privileges, duties, or position of
3 his or her public office or employment position.

4 Section 12. Subsection (2) of section 112.534, Florida
5 Statutes, is amended to read:

6 112.534 Failure to comply; official misconduct.--

7 (2) All the provisions of s. 838.022 ~~839.25~~ shall
8 apply to this part.

9 Section 13. Paragraph (d) of subsection (4) of section
10 117.01, Florida Statutes, is amended to read:

11 117.01 Appointment, application, suspension,
12 revocation, application fee, bond, and oath.--

13 (4) The Governor may suspend a notary public for any
14 of the grounds provided in s. 7, Art. IV of the State
15 Constitution. Grounds constituting malfeasance, misfeasance,
16 or neglect of duty include, but are not limited to, the
17 following:

18 (d) Official misconduct as defined in s. 838.022
19 ~~839.25~~.

20 Section 14. Paragraph (f) of subsection (5) of section
21 121.091, Florida Statutes, is amended to read:

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

1 establishing procedures for application for retirement
2 benefits and for the cancellation of such application when the
3 required information or documents are not received.

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

14 (f) Any member who has been found guilty by a verdict
15 of a jury, or by the court trying the case without a jury, of
16 committing, aiding, or abetting any embezzlement or theft from
17 his or her employer, bribery in connection with the
18 employment, or other felony specified in chapter 838, ~~except~~
19 ~~ss. 838.15 and 838.16~~, committed prior to retirement, or who
20 has entered a plea of guilty or of nolo contendere to such
21 crime, or any member whose employment is terminated by reason
22 of the member's admitted commitment, aiding, or abetting of an
23 embezzlement or theft from his or her employer, bribery, or
24 other felony specified in chapter 838, ~~except ss. 838.15 and~~
25 ~~838.16~~, shall forfeit all rights and benefits under this
26 chapter, except the return of his or her accumulated
27 contributions as of the date of termination.

28 Section 15. This act shall take effect October 1,
29 2002.

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HOUSE 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, commercial
bribery, and official misconduct. Expands jurisdiction of
the statewide grand jury to include violations of ch.
838, F.S.