

By Senator Smith

5-16-02

1 A bill to be entitled
2 An act relating to violation of the election
3 code; amending s. 104.091, F.S.; providing that
4 any person who conspires with another person to
5 violate the election code or who knowingly
6 gives aid to a person who has violated the code
7 with intent to help such person avoid or escape
8 detection, arrest, trial, or punishment shall
9 be punished as if he or she had committed the
10 violation; providing penalties; amending s.
11 777.04, F.S.; exempting certain violations of
12 the Florida Election Code from provisions
13 specifying the ranking of an offense under the
14 Criminal Punishment Code; providing an
15 effective date.

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

19 Section 1. Section 104.091, Florida Statutes, is
20 amended to read:

21 104.091 Aiding, abetting, ~~or~~ advising, or conspiring
22 in violation of the code.--

23 (1) Any person who shall knowingly aids, abets, or
24 advises aid, abet or advise the violation of this code shall
25 be punished in like manner as the principal offender.

26 (2) Any person who agrees, conspires, combines, or
27 confederates with another person to commit a violation of this
28 code shall be punished as if he or she had committed the
29 violation.

30 (3) Any person who knows of a violation of this code
31 and gives any aid to the offender who has violated this code,

1 with intent that the offender avoid or escape detection,
2 arrest, trial, or punishment, shall be punished as if he or
3 she had committed the violation. This subsection does not
4 prohibit a member of The Florida Bar from giving legal advice
5 to a client.

6 Section 2. Subsection (4) of section 777.04, Florida
7 Statutes, is amended to read:

8 777.04 Attempts, solicitation, and conspiracy.--

9 (4)(a) Except as otherwise provided in ss. 104.091(2),
10 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense
11 of criminal attempt, criminal solicitation, or criminal
12 conspiracy is ranked for purposes of sentencing under chapter
13 921 and determining incentive gain-time eligibility under
14 chapter 944 one level below the ranking under s. 921.0022 or
15 s. 921.0023 of the offense attempted, solicited, or conspired
16 to. If the criminal attempt, criminal solicitation, or
17 criminal conspiracy is of an offense ranked in level 1 or
18 level 2 under s. 921.0022 or s. 921.0023, such offense is a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083.

21 (b) If the offense attempted, solicited, or conspired
22 to is a capital felony, the offense of criminal attempt,
23 criminal solicitation, or criminal conspiracy is a felony of
24 the first degree, punishable as provided in s. 775.082, s.
25 775.083, or s. 775.084.

26 (c) Except as otherwise provided in s. 893.135(5), if
27 the offense attempted, solicited, or conspired to is a life
28 felony or a felony of the first degree, the offense of
29 criminal attempt, criminal solicitation, or criminal
30 conspiracy is a felony of the second degree, punishable as
31 provided in s. 775.082, s. 775.083, or s. 775.084.

1 (d) Except as otherwise provided in s. 104.091(2),s.
2 828.125(2),or s. 849.25(4), if the offense attempted,
3 solicited, or conspired to is a:

- 4 1. Felony of the second degree;
- 5 2. Burglary that is a felony of the third degree; or
- 6 3. Felony of the third degree ranked in level 3, 4, 5,
7 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

8
9 the offense of criminal attempt, criminal solicitation, or
10 criminal conspiracy is a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 (e) Except as otherwise provided in s. 104.091(2),s.
14 849.25(4),or paragraph (d), if the offense attempted,
15 solicited, or conspired to is a felony of the third degree,
16 the offense of criminal attempt, criminal solicitation, or
17 criminal conspiracy is a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 (f) Except as otherwise provided in s. 104.091(2),if
20 the offense attempted, solicited, or conspired to is a
21 misdemeanor of the first or second degree, the offense of
22 criminal attempt, criminal solicitation, or criminal
23 conspiracy is a misdemeanor of the second degree, punishable
24 as provided in s. 775.082 or s. 775.083.

25 Section 3. This act shall take effect October 1, 2002.

26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides that any person who conspires with another person to violate the election code or who knowingly gives aid to a person who has violated the code with intent to help such person avoid or escape detection, arrest, trial, or punishment shall be punished as if he or she had committed the violation. This provision does not prohibit a member of The Florida Bar from giving legal advice to a client.