

By Senator Sebesta

20-338A-02

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,
9 838.016, F.S.; increasing penalties for bribery
10 and for unlawful compensation for official
11 behavior; creating ss. 838.022, 838.20, 838.21,
12 838.22, 838.23, 838.24, F.S.; providing
13 criminal penalties for official misconduct,
14 criminal misuse of official position,
15 disclosure or use of confidential criminal
16 justice information, and bid tampering;
17 providing status of confidential informants or
18 confidential sources; authorizing public
19 servants who are subjected to an investigation
20 for official misconduct to recover attorney's
21 fees; amending s. 837.02, F.S.; providing a
22 criminal penalty for perjury in an official
23 proceeding by a public servant; amending s.
24 921.0022, F.S.; deleting specified felonies
25 from and adding specified felonies to the
26 Criminal Punishment Code offense severity
27 ranking chart; repealing s. 838.15, F.S.,
28 relating to commercial bribe receiving;
29 repealing s. 838.16, F.S., relating to
30 commercial bribery; amending ss. 112.3173,
31 121.091, F.S., to conform cross-references;

1 amending s. 905.34, F.S.; expanding the
2 jurisdiction of the statewide grand jury to
3 include violations of ch. 838, F.S.; providing
4 an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. This act may be cited as the "Citizens'
9 Right to Honest Government Act."

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

12 16.56 Office of Statewide Prosecution.--

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

17 (a) Investigate and prosecute the offenses of:

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

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

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

1 if the prosecution of the violation of s. 895.03 is terminated
2 for any reason;

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

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

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

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

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

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

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

23 838.014 Definitions.--As used in ~~For the purposes of~~
24 this chapter, the term ~~unless a different meaning plainly is~~
25 ~~required:~~

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

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

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

7 (4) "Public servant" means:

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

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

11 (c) Any officer, director, partner, manager,
12 representative, or employee of a nongovernmental entity that
13 is authorized by law or contract to perform a governmental
14 function or provide a governmental service on behalf of a
15 state, county, municipal, or special district agency or entity
16 to the extent that the individual's conduct relates to the
17 performance of the governmental function or provision of the
18 governmental service;

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

21 (e) Any person, except a witness, who acts as a
22 master, receiver, auditor, juror, arbitrator, umpire, referee,
23 consultant, or hearing officer while performing a governmental
24 function; or

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

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

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

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

20 ~~(5) "Government" includes the state government and any~~
21 ~~city or county government or any branch, political~~
22 ~~subdivision, or agency of the state, county, or city~~
23 ~~government.~~

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

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

31 838.015 Bribery.--

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

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

6 838.016 Unlawful compensation or reward for official
7 behavior.--

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

12 Section 6. Sections 838.022, 838.20, 838.21, 838.22,
13 838.23, and 838.24, Florida Statutes, are created to read:

14 838.022 Official misconduct.--

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

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

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

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

27 (2) For the purposes of this section:

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

30 (b) An official record or official document includes
31 only public records.

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

4 838.20 Criminal misuse of official position.--

5 (1) It is unlawful for any public officer or public
6 employee to corruptly use or attempt to use his or her
7 official position, or any public property or public resource
8 within his or her trust, to:

9 (a) Establish any business relationship between the
10 public officer's or public employee's own agency and any
11 business entity in which the public officer or public employee
12 receives or has an expectation of receiving a benefit; or

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

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

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

31

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

3 838.22 Bid tampering.--

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

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

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

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

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

19 (a) Disclose material information concerning a bid or
20 other aspects of the competitive bidding process when such
21 information is not publicly disclosed.

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

27 (c) Alter or amend a submitted bid, documents or other
28 materials supporting a submitted bid, or bid results for the
29 purpose of providing an unfair competitive advantage to any
30 person who submits a bid.

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

6 (4) It is unlawful for any person to knowingly agree,
7 conspire, combine, or confederate, directly or indirectly,
8 with a public servant to violate subsection (2) or subsection
9 (3).

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

14 (6) Any person who violates this section commits a
15 felony of the second degree, punishable as provided in s.
16 775.082, s. 775.083, or s. 775.084.

17 838.23 Status of confidential informants and
18 confidential sources.--A person who provides information
19 regarding suspected criminal violations committed by a public
20 servant as defined in s. 838.014 shall be considered a
21 confidential informant or confidential source pursuant to s.
22 119.07(3)(c).

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

1 the performance of his or her official duties and served a
2 public purpose.

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

5 837.02 Perjury in official proceedings.--

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

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

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

24 (4)~~(3)~~ Knowledge of the materiality of the statement
25 is not an element of the crime of perjury under subsection
26 (1), or ~~or~~ subsection (2), or ~~or~~ subsection (3), and the defendant's
27 mistaken belief that the statement was not material is not a
28 defense.

29 Section 8. Paragraphs (a), (f), and (g) of subsection
30 (3) of section 921.0022, Florida Statutes, as amended by
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1 section 2 of chapter 2001-358, Laws of Florida, are amended to
2 read:

3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6	7 Florida	8 Felony	
9	10 Statute	11 Degree	12 Description
13			(a) LEVEL 1
14	24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
15	212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
16	212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
17	319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
18	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
19	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
20	322.212(1)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
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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.
31			

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.
31			

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.
29			
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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.
31			

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.
30			
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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 9. Sections 838.15 and 838.16, Florida
7 Statutes, are repealed.

8 Section 10. 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 11. Paragraph (f) of subsection (5) of section
5 121.091, Florida Statutes, is amended to read:

6 121.091 Benefits payable under the system.--Benefits
7 may not be paid under this section unless the member has
8 terminated employment as provided in s. 121.021(39)(a) or
9 begun participation in the Deferred Retirement Option Program
10 as provided in subsection (13), and a proper application has
11 been filed in the manner prescribed by the department. The
12 department may cancel an application for retirement benefits
13 when the member or beneficiary fails to timely provide the
14 information and documents required by this chapter and the
15 department's rules. The department shall adopt rules
16 establishing procedures for application for retirement
17 benefits and for the cancellation of such application when the
18 required information or documents are not received.

19 (5) TERMINATION BENEFITS.--A member whose employment
20 is terminated prior to retirement retains membership rights to
21 previously earned member-noncontributory service credit, and
22 to member-contributory service credit, if the member leaves
23 the member contributions on deposit in his or her retirement
24 account. If a terminated member receives a refund of member
25 contributions, such member may reinstate membership rights to
26 the previously earned service credit represented by the refund
27 by completing 1 year of creditable service and repaying the
28 refunded member contributions, plus interest.

29 (f) Any member who has been found guilty by a verdict
30 of a jury, or by the court trying the case without a jury, of
31 committing, aiding, or abetting any embezzlement or theft from

1 his or her employer, bribery in connection with the
2 employment, or other felony specified in chapter 838, ~~except~~
3 ~~ss. 838.15 and 838.16~~, committed prior to retirement, or who
4 has entered a plea of guilty or of nolo contendere to such
5 crime, or any member whose employment is terminated by reason
6 of the member's admitted commitment, aiding, or abetting of an
7 embezzlement or theft from his or her employer, bribery, or
8 other felony specified in chapter 838, except ss. 838.15 and
9 838.16, shall forfeit all rights and benefits under this
10 chapter, except the return of his or her accumulated
11 contributions as of the date of termination.

12 Section 12. Section 905.34, Florida Statutes, is
13 amended to read:

14 905.34 Powers and duties; law applicable.--The
15 jurisdiction of a statewide grand jury impaneled under this
16 chapter shall extend throughout the state. The subject matter
17 jurisdiction of the statewide grand jury shall be limited to
18 the offenses of:

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

23 (2) Crimes involving narcotic or other dangerous
24 drugs;

25 (3) Any violation of the provisions of the Florida
26 RICO (Racketeer Influenced and Corrupt Organization) Act,
27 including any offense listed in the definition of racketeering
28 activity 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 violation of the provisions of chapter 815;

9 (7) Any crime involving, or resulting in, fraud or
10 deceit upon any person;

11 (8) Any violation of s. 847.0135, s. 847.0137, or s.
12 847.0138 relating to computer pornography and child
13 exploitation prevention, or any offense related to a violation
14 of s. 847.0135, s. 847.0137, or s. 847.0138;

15
16 or any attempt, solicitation, or conspiracy to commit any
17 violation of the crimes specifically enumerated above, when
18 any such offense is occurring, or has occurred, in two or more
19 judicial circuits as part of a related transaction or when any
20 such offense is connected with an organized criminal
21 conspiracy affecting two or more judicial circuits. The
22 statewide grand jury may return indictments and presentments
23 irrespective of the county or judicial circuit where the
24 offense is committed or triable. If an indictment is
25 returned, it shall be certified and transferred for trial to
26 the county where the offense was committed. The powers and
27 duties of, and law applicable to, county grand juries shall
28 apply to a statewide grand jury except when such powers,
29 duties, and law are inconsistent with the provisions of ss.
30 905.31-905.40.

31

1 Section 13. This act shall take effect October 1,
2 2002.

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5 LEGISLATIVE SUMMARY

6 Creates the "Citizens' Right to Honest Government Act."
7 Authorizes the Office of Statewide Prosecution to
8 investigate and prosecute violations of ch. 838, F.S.
9 Authorizes a statewide grand jury to investigate
10 violations of ch. 838, F.S. Revises, provides, and
11 deletes definitions. Increases the penalties for bribery
12 and unlawful compensation or reward for official behavior
13 to a second-degree felony. Provides penalties for
14 official misconduct, criminal misuse of official
15 position, disclosure or use of confidential criminal
16 justice information by a public servant, and bid
17 tampering. Provides status of confidential informants or
18 confidential sources. Authorizes public servants who are
19 subjected to an investigation for official misconduct to
20 recover attorney's fees. Provides a penalty for perjury
21 by a public servant in an official proceeding. Ranks
22 violations of ch. 838, F.S., in the Criminal Punishment
23 Code offense severity ranking chart. Repeals provisions
24 relating to commercial bribe receiving and commercial
25 bribery.
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