

By the Committee on Ethics and Elections; and Senator Sebesta

313-2429-03

1 A bill to be entitled
2 An act relating to violations of citizens'
3 right to honest government; providing a popular
4 name; amending s. 16.56, F.S.; authorizing the
5 Office of Statewide Prosecution to prosecute
6 violations of ch. 838, F.S.; amending s.
7 838.014, F.S.; revising, providing, and
8 deleting definitions; amending s. 838.015,
9 F.S.; revising the definition of "bribery" and
10 increasing the penalty therefor; amending s.
11 838.016, F.S.; increasing the penalty for
12 unlawful compensation for official behavior;
13 creating ss. 838.022, 838.20, 838.21, 838.22,
14 and 838.23, F.S.; providing criminal penalties
15 for official misconduct, criminal misuse of
16 official position, disclosure or use of
17 confidential criminal justice information, and
18 bid tampering; providing definitions; providing
19 status of confidential informants and
20 confidential sources; amending s. 837.02, F.S.;
21 providing a criminal penalty for perjury in an
22 official proceeding by a public servant;
23 amending s. 905.34, F.S.; expanding the
24 jurisdiction of the statewide grand jury to
25 include violations of ch. 838, F.S.; amending
26 s. 921.0022, F.S.; deleting specified felonies
27 from and adding specified felonies to the
28 Criminal Punishment Code offense severity
29 ranking chart; repealing s. 838.15, F.S.,
30 relating to commercial bribe receiving;
31 repealing s. 838.16, F.S., relating to

1 commercial bribery; repealing s. 839.25, F.S.,
2 relating to official misconduct; amending ss.
3 112.3173, 112.534, 117.01, and 121.091, F.S.;
4 deleting and conforming cross-references to
5 changes made by the act; providing an effective
6 date.

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

9
10 Section 1. This act may be known by the popular name
11 the "Paul Mendelson Citizens' Right to Honest Government Act."

12 Section 2. Paragraph (a) of subsection (1) of section
13 16.56, Florida Statutes, is amended to read:

14 16.56 Office of Statewide Prosecution.--

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

19 (a) Investigate and prosecute the offenses of:

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

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

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

1 containing a count charging a violation of s. 895.03, the
2 prosecution of which listed offense may continue independently
3 if the prosecution of the violation of s. 895.03 is terminated
4 for any reason;

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

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

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

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

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

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

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

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

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

1 commission, gift, gratuity, property, commercial interest, or
2 any other thing of economic value not authorized by law.

3 (2) "Bid" includes a response to an "invitation to
4 bid," "invitation to negotiate," "request for a quote," or
5 "request for proposals" as those terms are defined in s.
6 287.012.

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

11 (4) "Corruptly" or "with corrupt intent" means acting
12 knowingly and dishonestly for a wrongful purpose.

13 (5) "Harm" means pecuniary or other loss,
14 disadvantage, or injury to the person affected.

15 (6) "Public servant" means:

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

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

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

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

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

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. Subsections (1) and (3) of section 838.015,
30 Florida Statutes, are amended to read:

31 838.015 Bribery.--

1 (1) "Bribery" means corruptly to give, offer, or
2 promise to any public servant, or, if a public servant,
3 corruptly to request, solicit, accept, or agree to accept for
4 himself or herself or another, any pecuniary or other benefit
5 not authorized by law with an intent or purpose to influence
6 the performance of any act or omission which the person
7 believes to be, or the public servant represents as being,
8 within the official discretion of a public servant, in
9 violation of a public duty, or in performance of a public
10 duty.

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

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

16 838.016 Unlawful compensation or reward for official
17 behavior.--

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

22 Section 6. Sections 838.022, 838.20, 838.21, 838.22,
23 and 838.23, Florida Statutes, are created to read:

24 838.022 Official misconduct.--

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

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

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

4 (c) Obstruct, delay, or prevent the communication of
5 information relating to the commission of a felony that
6 directly involves or affects the public agency or public
7 entity served by the public servant.

8 (2) For the purposes of this section:

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

11 (b) An official record or official document includes
12 only public records.

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

16 838.20 Criminal misuse of official position.--

17 (1) It is unlawful for any public officer or public
18 employee to corruptly use or attempt to use his or her
19 official position, or any public property or public resource
20 that is within his or her trust, to establish any business
21 relationship between the public officer's or public employee's
22 own agency and any business entity in which the public officer
23 or public employee receives or has an expectation of receiving
24 a benefit.

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

28 838.21 Disclosure or use of confidential criminal
29 justice information.--It is unlawful for a public servant,
30 with intent to obstruct, impede, or prevent a criminal
31 investigation or a criminal prosecution, to disclose active

1 criminal investigative or intelligence information as defined
2 in chapter 119 or to disclose or use information regarding
3 either the efforts to secure or the issuance of a warrant,
4 subpoena, or other court process or court order relating to a
5 criminal investigation or criminal prosecution when such
6 information is not available to the general public and is
7 gained by reason of the public servant's official position.
8 Any person who violates this section commits a felony of the
9 third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 838.22 Bid tampering.--

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

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

20 (b) Alter or amend a submitted bid, documents or other
21 materials supporting a submitted bid, or bid results for the
22 purpose of intentionally providing a competitive advantage to
23 any person who submits a bid.

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

29 (3) It is unlawful for any person to knowingly agree,
30 conspire, combine, or confederate, directly or indirectly,

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1 with a public servant to violate subsection (1) or subsection
2 (2).

3 (4) It is unlawful for any person to knowingly enter
4 into a contract for commodities or services which was secured
5 by a public servant acting in violation of subsection (1) or
6 subsection (2).

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

10 838.23 Status of confidential informants and
11 confidential sources.--A person who provides information
12 regarding suspected criminal violations committed by a public
13 servant as defined in s. 838.014 shall be considered a
14 confidential informant or confidential source pursuant to s.
15 119.07(3)(c).

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

18 837.02 Perjury in official proceedings.--

19 (1) Except as provided in subsections ~~subsection~~ (2)
20 and (3), whoever makes a false statement, which he or she does
21 not believe to be true, under oath in an official proceeding
22 in regard to any material matter, commits a felony of the
23 third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

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

30 (3) Any public servant, as defined in s. 838.014, who
31 gives false testimony, which he or she does not believe to be

1 true, under oath in an official proceeding in regard to any
2 material matter that relates to his or her duties or actions
3 as a public servant commits a felony of the second degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084.

6 (4)~~(3)~~ Knowledge of the materiality of the statement
7 is not an element of the crime of perjury under subsection
8 (1), or subsection (2), or subsection (3) and the defendant's
9 mistaken belief that the statement was not material is not a
10 defense.

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

13 905.34 Powers and duties; law applicable.--The
14 jurisdiction of a statewide grand jury impaneled under this
15 chapter shall extend throughout the state. The subject matter
16 jurisdiction of the statewide grand jury shall be limited to
17 the offenses of:

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

22
23 or any attempt, solicitation, or conspiracy to commit any
24 violation of the crimes specifically enumerated above, when
25 any such offense is occurring, or has occurred, in two or more
26 judicial circuits as part of a related transaction or when any
27 such offense is connected with an organized criminal
28 conspiracy affecting two or more judicial circuits. The
29 statewide grand jury may return indictments and presentments
30 irrespective of the county or judicial circuit where the
31 offense is committed or triable. If an indictment is

1 returned, it shall be certified and transferred for trial to
2 the county where the offense was committed. The powers and
3 duties of, and law applicable to, county grand juries shall
4 apply to a statewide grand jury except when such powers,
5 duties, and law are inconsistent with the provisions of ss.
6 905.31-905.40.

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

10 921.0022 Criminal Punishment Code; offense severity
11 ranking chart.--

12 (3) OFFENSE SEVERITY RANKING CHART

13

14 Florida	Felony	
15 Statute	Degree	Description
		(a) LEVEL 1
18 24.118(3)(a)	3rd	Counterfeit or altered state 19 lottery ticket.
20 212.054(2)(b)	3rd	Discretionary sales surtax; 21 limitations, administration, and 22 collection.
23 212.15(2)(b)	3rd	Failure to remit sales taxes, 24 amount greater than \$300 but less 25 than \$20,000.
26 319.30(5)	3rd	Sell, exchange, give away 27 certificate of title or 28 identification number plate.
29 319.35(1)(a)	3rd	Tamper, adjust, change, etc., an 30 odometer.

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1	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
2			registration license plates or
3			validation stickers.
4	322.212		
5	(1)(a)-(c)	3rd	Possession of forged, stolen,
6			counterfeit, or unlawfully issued
7			driver's license; possession of
8			simulated identification.
9	322.212(4)	3rd	Supply or aid in supplying
10			unauthorized driver's license or
11			identification card.
12	322.212(5)(a)	3rd	False application for driver's
13			license or identification card.
14	370.13(3)(a)	3rd	Molest any stone crab trap, line,
15			or buoy which is property of
16			licenseholder.
17	370.135(1)	3rd	Molest any blue crab trap, line,
18			or buoy which is property of
19			licenseholder.
20	372.663(1)	3rd	Poach any alligator or
21			crocodilia.
22	414.39(2)	3rd	Unauthorized use, possession,
23			forgery, or alteration of food
24			stamps, Medicaid ID, value
25			greater than \$200.
26	414.39(3)(a)	3rd	Fraudulent misappropriation of
27			public assistance funds by
28			employee/official, value more
29			than \$200.
30			
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1	443.071(1)	3rd	False statement or representation
2			to obtain or increase
3			unemployment compensation
4			benefits.
5	509.151(1)	3rd	Defraud an innkeeper, food or
6			lodging value greater than \$300.
7	517.302(1)	3rd	Violation of the Florida
8			Securities and Investor
9			Protection Act.
10	562.27(1)	3rd	Possess still or still apparatus.
11	713.69	3rd	Tenant removes property upon
12			which lien has accrued, value
13			more than \$50.
14	812.014(3)(c)	3rd	Petit theft (3rd conviction);
15			theft of any property not
16			specified in subsection (2).
17	812.081(2)	3rd	Unlawfully makes or causes to be
18			made a reproduction of a trade
19			secret.
20	815.04(4)(a)	3rd	Offense against intellectual
21			property (i.e., computer
22			programs, data).
23	817.52(2)	3rd	Hiring with intent to defraud,
24			motor vehicle services.
25	817.569(2)	3rd	Use of public record or public
26			records information to facilitate
27			commission of a felony.
28	826.01	3rd	Bigamy.
29	828.122(3)	3rd	Fighting or baiting animals.
30			
31			

1	831.04(1)	3rd	Any erasure, alteration, etc., of
2			any replacement deed, map, plat,
3			or other document listed in s.
4			92.28.
5	831.31(1)(a)	3rd	Sell, deliver, or possess
6			counterfeit controlled
7			substances, all but s. 893.03(5)
8			drugs.
9	832.041(1)	3rd	Stopping payment with intent to
10			defraud \$150 or more.
11	832.05		
12	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
13			worthless checks \$150 or more or
14			obtaining property in return for
15			worthless check \$150 or more.
16	838.015(3)	3rd	Bribery.
17	838.016(1)	3rd	Public servant receiving unlawful
18			compensation.
19	838.15(2)	3rd	Commercial bribe receiving.
20	838.16	3rd	Commercial bribery.
21	843.18	3rd	Fleeing by boat to elude a law
22			enforcement officer.
23	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
24			lewd, etc., material (2nd
25			conviction).
26	849.01	3rd	Keeping gambling house.
27	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
28			or assist therein, conduct or
29			advertise drawing for prizes, or
30			dispose of property or money by
31			means of lottery.

1	849.23	3rd	Gambling-related machines;
2			"common offender" as to property
3			rights.
4	849.25(2)	3rd	Engaging in bookmaking.
5	860.08	3rd	Interfere with a railroad signal.
6	860.13(1)(a)	3rd	Operate aircraft while under the
7			influence.
8	893.13(2)(a)2.	3rd	Purchase of cannabis.
9	893.13(6)(a)	3rd	Possession of cannabis (more than
10			20 grams).
11	934.03(1)(a)	3rd	Intercepts, or procures any other
12			person to intercept, any wire or
13			oral communication.
14			(f) LEVEL 6
15	316.027(1)(b)	2nd	Accident involving death, failure
16			to stop; leaving scene.
17	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
18			conviction.
19	775.0875(1)	3rd	Taking firearm from law
20			enforcement officer.
21	775.21(10)	3rd	Sexual predators; failure to
22			register; failure to renew
23			driver's license or
24			identification card.
25	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
26			without intent to kill.
27	784.021(1)(b)	3rd	Aggravated assault; intent to
28			commit felony.
29	784.041	3rd	Felony battery.
30	784.048(3)	3rd	Aggravated stalking; credible
31			threat.

1	784.048(5)	3rd	Aggravated stalking of person
2			under 16.
3	784.07(2)(c)	2nd	Aggravated assault on law
4			enforcement officer.
5	784.074(1)(b)	2nd	Aggravated assault on sexually
6			violent predators facility staff.
7	784.08(2)(b)	2nd	Aggravated assault on a person 65
8			years of age or older.
9	784.081(2)	2nd	Aggravated assault on specified
10			official or employee.
11	784.082(2)	2nd	Aggravated assault by detained
12			person on visitor or other
13			detainee.
14	784.083(2)	2nd	Aggravated assault on code
15			inspector.
16	787.02(2)	3rd	False imprisonment; restraining
17			with purpose other than those in
18			s. 787.01.
19	790.115(2)(d)	2nd	Discharging firearm or weapon on
20			school property.
21	790.161(2)	2nd	Make, possess, or throw
22			destructive device with intent to
23			do bodily harm or damage
24			property.
25	790.164(1)	2nd	False report of deadly explosive,
26			weapon of mass destruction, or
27			act of arson or violence to state
28			property.
29	790.19	2nd	Shooting or throwing deadly
30			missiles into dwellings, vessels,
31			or vehicles.

1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	800.04(5)(d)	3rd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			less than 18 years.
10	800.04(6)(b)	2nd	Lewd or lascivious conduct;
11			offender 18 years of age or
12			older.
13	806.031(2)	2nd	Arson resulting in great bodily
14			harm to firefighter or any other
15			person.
16	810.02(3)(c)	2nd	Burglary of occupied structure;
17			unarmed; no assault or battery.
18	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
19			but less than \$100,000, grand
20			theft in 2nd degree.
21	812.014(2)(b)2.	2nd	Property stolen; cargo valued at
22			less than \$50,000, grand theft in
23			2nd degree.
24	812.015(9)	2nd	Retail theft; property stolen
25			\$300 or more; second or
26			subsequent conviction.
27	812.13(2)(c)	2nd	Robbery, no firearm or other
28			weapon (strong-arm robbery).
29	817.034(4)(a)1.	1st	Communications fraud, value
30			greater than \$50,000.
31			

1	817.4821(5)	2nd	Possess cloning paraphernalia
2			with intent to create cloned
3			cellular telephones.
4	825.102(1)	3rd	Abuse of an elderly person or
5			disabled adult.
6	825.102(3)(c)	3rd	Neglect of an elderly person or
7			disabled adult.
8	825.1025(3)	3rd	Lewd or lascivious molestation of
9			an elderly person or disabled
10			adult.
11	825.103(2)(c)	3rd	Exploiting an elderly person or
12			disabled adult and property is
13			valued at less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	<u>838.21</u>	<u>3rd</u>	<u>Disclosure or use of confidential</u>
23			<u>criminal justice information.</u>
24	843.12	3rd	Aids or assists person to escape.
25	847.0135(3)	3rd	Solicitation of a child, via a
26			computer service, to commit an
27			unlawful sex act.
28	914.23	2nd	Retaliation against a witness,
29			victim, or informant, with bodily
30			injury.
31			

1	943.0435(9)	3rd	Sex offenders; failure to comply
2			with reporting requirements.
3	944.35(3)(a)2.	3rd	Committing malicious battery upon
4			or inflicting cruel or inhuman
5			treatment on an inmate or
6			offender on community
7			supervision, resulting in great
8			bodily harm.
9	944.40	2nd	Escapes.
10	944.46	3rd	Harboring, concealing, aiding
11			escaped prisoners.
12	944.47(1)(a)5.	2nd	Introduction of contraband
13			(firearm, weapon, or explosive)
14			into correctional facility.
15	951.22(1)	3rd	Intoxicating drug, firearm, or
16			weapon introduced into county
17			facility.
18			(g) LEVEL 7
19	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
20			injury.
21	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
22			bodily injury.
23	402.319(2)	2nd	Misrepresentation and negligence
24			or intentional act resulting in
25			great bodily harm, permanent
26			disfiguration, permanent
27			disability, or death.
28	409.920(2)	3rd	Medicaid provider fraud.
29	456.065(2)	3rd	Practicing a health care
30			profession without a license.
31			

1	456.065(2)	2nd	Practicing a health care
2			profession without a license
3			which results in serious bodily
4			injury.
5	458.327(1)	3rd	Practicing medicine without a
6			license.
7	459.013(1)	3rd	Practicing osteopathic medicine
8			without a license.
9	460.411(1)	3rd	Practicing chiropractic medicine
10			without a license.
11	461.012(1)	3rd	Practicing podiatric medicine
12			without a license.
13	462.17	3rd	Practicing naturopathy without a
14			license.
15	463.015(1)	3rd	Practicing optometry without a
16			license.
17	464.016(1)	3rd	Practicing nursing without a
18			license.
19	465.015(2)	3rd	Practicing pharmacy without a
20			license.
21	466.026(1)	3rd	Practicing dentistry or dental
22			hygiene without a license.
23	467.201	3rd	Practicing midwifery without a
24			license.
25	468.366	3rd	Delivering respiratory care
26			services without a license.
27	483.828(1)	3rd	Practicing as clinical laboratory
28			personnel without a license.
29	483.901(9)	3rd	Practicing medical physics
30			without a license.
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1	484.013(1)(c)	3rd	Preparing or dispensing optical
2			devices without a prescription.
3	484.053	3rd	Dispensing hearing aids without a
4			license.
5	494.0018(2)	1st	Conviction of any violation of
6			ss. 494.001-494.0077 in which the
7			total money and property
8			unlawfully obtained exceeded
9			\$50,000 and there were five or
10			more victims.
11	560.123(8)(b)1.	3rd	Failure to report currency or
12			payment instruments exceeding
13			\$300 but less than \$20,000 by
14			money transmitter.
15	560.125(5)(a)	3rd	Money transmitter business by
16			unauthorized person, currency or
17			payment instruments exceeding
18			\$300 but less than \$20,000.
19	655.50(10)(b)1.	3rd	Failure to report financial
20			transactions exceeding \$300 but
21			less than \$20,000 by financial
22			institution.
23	782.051(3)	2nd	Attempted felony murder of a
24			person by a person other than the
25			perpetrator or the perpetrator of
26			an attempted felony.
27	782.07(1)	2nd	Killing of a human being by the
28			act, procurement, or culpable
29			negligence of another
30			(manslaughter).
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1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.074(1)(a)	1st	Aggravated battery on sexually
21			violent predators facility staff.
22	784.08(2)(a)	1st	Aggravated battery on a person 65
23			years of age or older.
24	784.081(1)	1st	Aggravated battery on specified
25			official or employee.
26	784.082(1)	1st	Aggravated battery by detained
27			person on visitor or other
28			detainee.
29	784.083(1)	1st	Aggravated battery on code
30			inspector.
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1	790.07(4)	1st	Specified weapons violation
2			subsequent to previous conviction
3			of s. 790.07(1) or (2).
4	790.16(1)	1st	Discharge of a machine gun under
5			specified circumstances.
6	790.165(2)	2nd	Manufacture, sell, possess, or
7			deliver hoax bomb.
8	790.165(3)	2nd	Possessing, displaying, or
9			threatening to use any hoax bomb
10			while committing or attempting to
11			commit a felony.
12	790.166(3)	2nd	Possessing, selling, using, or
13			attempting to use a hoax weapon
14			of mass destruction.
15	790.166(4)	2nd	Possessing, displaying, or
16			threatening to use a hoax weapon
17			of mass destruction while
18			committing or attempting to
19			commit a felony.
20	796.03	2nd	Procuring any person under 16
21			years for prostitution.
22	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
23			victim less than 12 years of age;
24			offender less than 18 years.
25	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
26			victim 12 years of age or older
27			but less than 16 years; offender
28			18 years or older.
29	806.01(2)	2nd	Maliciously damage structure by
30			fire or explosive.
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1	810.02(3)(a)	2nd	Burglary of occupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(d)	2nd	Burglary of occupied conveyance;
6			unarmed; no assault or battery.
7	812.014(2)(a)	1st	Property stolen, valued at
8			\$100,000 or more; cargo stolen
9			valued at \$50,000 or more;
10			property stolen while causing
11			other property damage; 1st degree
12			grand theft.
13	812.014(2)(b)3.	2nd	Property stolen, emergency
14			medical equipment; 2nd degree
15			grand theft.
16	812.0145(2)(a)	1st	Theft from person 65 years of age
17			or older; \$50,000 or more.
18	812.019(2)	1st	Stolen property; initiates,
19			organizes, plans, etc., the theft
20			of property and traffics in
21			stolen property.
22	812.131(2)(a)	2nd	Robbery by sudden snatching.
23	812.133(2)(b)	1st	Carjacking; no firearm, deadly
24			weapon, or other weapon.
25	817.234(11)(c)	1st	Insurance fraud; property value
26			\$100,000 or more.
27	825.102(3)(b)	2nd	Neglecting an elderly person or
28			disabled adult causing great
29			bodily harm, disability, or
30			disfigurement.
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(3)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	<u>837.02(3)</u>	<u>2nd</u>	<u>Perjury by a public servant in an</u>
12			<u>official proceeding.</u>
13	837.05(2)	3rd	Giving false information about
14			alleged capital felony to a law
15			enforcement officer.
16	<u>838.015</u>	<u>2nd</u>	<u>Bribery.</u>
17	<u>838.016</u>	<u>2nd</u>	<u>Unlawful compensation or reward</u>
18			<u>for official behavior.</u>
19	<u>838.021(3)(a)</u>	<u>2nd</u>	<u>Unlawful harm to a public</u>
20			<u>servant.</u>
21	<u>838.022</u>	<u>2nd</u>	<u>Official misconduct.</u>
22	<u>838.20</u>	<u>2nd</u>	<u>Criminal misuse of official</u>
23			<u>position.</u>
24	<u>838.22</u>	<u>2nd</u>	<u>Bid tampering.</u>
25	872.06	2nd	Abuse of a dead human body.
26	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
27			cocaine (or other drug prohibited
28			under s. 893.03(1)(a), (1)(b),
29			(1)(d), (2)(a), (2)(b), or
30			(2)(c)4.) within 1,000 feet of a
31			child care facility or school.

1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 25 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	893.135		
5	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
6			grams or more, less than 14
7			grams.
8	893.135		
9	(1)(h)1.a.	1st	Trafficking in
10			gamma-hydroxybutyric acid (GHB),
11			1 kilogram or more, less than 5
12			kilograms.
13	893.135		
14	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
15			kilogram or more, less than 5
16			kilograms.
17	893.135		
18	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
19			10 grams or more, less than 200
20			grams.
21	896.101(5)(a)	3rd	Money laundering, financial
22			transactions exceeding \$300 but
23			less than \$20,000.
24	896.104(4)(a)1.	3rd	Structuring transactions to evade
25			reporting or registration
26			requirements, financial
27			transactions exceeding \$300 but
28			less than \$20,000.
29	Section 10. <u>Sections 838.15, 838.16, and 839.25,</u>		
30	<u>Florida Statutes, are repealed.</u>		
31			

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

3 112.3173 Felonies involving breach of public trust and
4 other specified offenses by public officers and employees;
5 forfeiture of retirement benefits.--

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

8 (e) "Specified offense" means:

9 1. The committing, aiding, or abetting of an
10 embezzlement of public funds;

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

13 3. Bribery in connection with the employment of a
14 public officer or employee;

15 4. Any felony specified in chapter 838, ~~except ss.~~
16 ~~838.15 and 838.16~~;

17 5. The committing of an impeachable offense; or

18 6. The committing of any felony by a public officer or
19 employee who, willfully and with intent to defraud the public
20 or the public agency for which the public officer or employee
21 acts or in which he or she is employed of the right to receive
22 the faithful performance of his or her duty as a public
23 officer or employee, realizes or obtains, or attempts to
24 realize or obtain, a profit, gain, or advantage for himself or
25 herself or for some other person through the use or attempted
26 use of the power, rights, privileges, duties, or position of
27 his or her public office or employment position.

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

30 112.534 Failure to comply; official misconduct.--

31

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

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

5 117.01 Appointment, application, suspension,
6 revocation, application fee, bond, and oath.--

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

12 (d) Official misconduct as defined in s. 838.022
13 ~~839.25~~.

14 Section 14. Paragraph (f) of subsection (5) of section
15 121.091, Florida Statutes, is amended to read:

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

29 (5) TERMINATION BENEFITS.--A member whose employment
30 is terminated prior to retirement retains membership rights to
31 previously earned member-noncontributory service credit, and

1 to member-contributory service credit, if the member leaves
2 the member contributions on deposit in his or her retirement
3 account. If a terminated member receives a refund of member
4 contributions, such member may reinstate membership rights to
5 the previously earned service credit represented by the refund
6 by completing 1 year of creditable service and repaying the
7 refunded member contributions, plus interest.

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

22 Section 15. This act shall take effect October 1,
23 2003.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2030

The Committee Substitute substantially differs from the original bill in that it: re-defines the terms "benefit," "corruptly" or "with corrupt intent," "harm," and "public servant" for purposes of Chapter 838; clarifies that the definition of "bribery" applies only to any pecuniary or other benefit "not authorized by law"; deletes a provision making it a criminal misuse of public position for a public officer or employee to corruptly perform his or her official duties to secure a benefit for himself or herself not generally available to the public; removes a provision of the public bid tampering statute making it a crime for a public servant to corruptly intend to influence the competitive bidding process by establishing a bid specification or alter another material aspect of the process to provide an unfair advantage to any person who submits a bid; deletes a provision that provided for the payment of reasonable attorney's fees and costs to public servants who are acquitted of public corruption charges or where the charges are dismissed; and, makes technical changes.