

By Senator Wise

5-00941-09

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1 A bill to be entitled
2 An act relating to public officers and employees;
3 amending s. 112.313, F.S.; providing additional acts
4 that constitute a breach of duty by a public official,
5 an agency employee, or a local government attorney;
6 amending s. 838.022, F.S.; expanding the list of acts
7 of official misconduct; requiring state attorneys and
8 law enforcement agencies to strictly enforce the
9 provisions prohibiting official misconduct; amending
10 s. 839.24, F.S.; providing that the failure of a
11 sheriff, judicial officer, quasi-judicial officer,
12 prosecuting officer, court reporter, stenographer,
13 interpreter, or other public officer to perform a
14 required duty is a misdemeanor of the second degree;
15 requiring state attorneys and law enforcement agencies
16 to strictly enforce such provisions; amending s.
17 843.0855, F.S.; providing penalties for additional
18 criminal actions committed by a public servant;
19 requiring state attorneys and law enforcement agencies
20 to strictly enforce such provisions; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Subsections (18) and (19) are added to section
26 112.313, Florida Statutes, to read:

27 112.313 Standards of conduct for public officers, employees
28 of agencies, and local government attorneys.—

29 (18) ADDITIONAL ACTS OF BREACH OF DUTY.—A public official,

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30 an agency employee, or a local government attorney under the
 31 jurisdiction of the commission may not cause or commit a
 32 misfeasance, malfeasance, or nonfeasance in office; any common,
 33 constitutional, or statutory law violations or deprivations in
 34 office; or any common, constitutional, or statutory law
 35 violations against or deprivations of others while conducting
 36 the duties of his or her office, irrespective of whether such
 37 acts, violations, or deprivations result in conflict between the
 38 public duties and private interests of the public officer,
 39 agency employee, or local government attorney. These acts,
 40 violations, or deprivations are also a breach of the public
 41 trust as defined in s. 112.312.

42 (19) ENFORCEMENT.—The Commission on Ethics shall strictly
 43 enforce compliance with this section.

44 Section 2. Section 838.022, Florida Statutes, is amended to
 45 read:

46 838.022 Official misconduct.—

47 (1) It is unlawful for a public servant, especially one
 48 that has judicial or quasi-judicial authority, ~~with corrupt~~
 49 ~~intent~~ to obtain with corrupt intent a benefit for any person or
 50 to cause harm to another, to:

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

53 (b) Conceal, cover up, destroy, mutilate, or alter any
 54 official record or official document or cause another person to
 55 perform such an act; ~~or~~

56 (c) Obstruct, delay, or prevent the communication of
 57 information relating to the commission of a felony that directly
 58 involves or affects the public agency or public entity served by

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59 the public servant; or-

60 (d) Render any ruling, opinion, action, or inaction adverse
61 to the doctrines of stare decisis, binding precedent, or the
62 supremacy clause of the United States Constitution when he or
63 she is clearly apprised of evidence, unless he or she has the
64 authority to overrule or recede from the rule of law, or
65 distinguishes the rule of law or sets forth some other
66 intervening or superseding evidence, and does so by the ruling,
67 opinion, action, or inaction.

68 (2) For the purposes of this section:

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

71 (b) An official record or official document includes only
72 public records.

73 (3) Any person who violates this section commits a felony
74 of the third degree, punishable as provided in s. 775.082, s.
75 775.083, or s. 775.084.

76 (4) State attorneys and law enforcement agencies shall
77 strictly enforce without discretion the provisions of this
78 section.

79 Section 3. Section 839.24, Florida Statutes, is amended to
80 read:

81 839.24 Penalty for failure to perform duty required of
82 officer.-Any A sheriff, judicial officer, quasi-judicial officer
83 county court judge, prosecuting officer, court reporter,
84 stenographer, interpreter, or other officer required to perform
85 any duty under any provision of the Florida Rules of Court or
86 chapter 120 ~~the criminal procedure law~~ who willfully fails or
87 corruptly refuses to perform his or her duty commits ~~shall be~~

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88 ~~guilty of~~ a misdemeanor of the second degree, punishable as
89 provided in s. 775.082 or s. 775.083. State attorneys and law
90 enforcement agencies shall strictly enforce without discretion
91 the provisions of this section.

92 Section 4. Subsection (4) of section 843.0855, Florida
93 Statutes, is amended to read:

94 843.0855 Criminal actions under color of law or through use
95 of simulated legal process.-

96 (4) (a) Any person who falsely under color of law attempts
97 in any way to influence, intimidate, or hinder a public officer
98 or law enforcement officer in the discharge of his or her
99 official duties by means of, but not limited to, threats of or
100 actual physical abuse or harassment, or through the use of
101 simulated legal process, commits a felony of the third degree,
102 punishable as provided in s. 775.082 or s. 775.083.

103 (b) Any public servant who, under color of law, in any
104 manner intentionally obstructs or attempts to obstruct the due
105 execution of the law, or who, with the intent to intimidate,
106 hinder, deprive, or interrupt any officer, beverage enforcement
107 agent, or other person or party in the legal performance of his
108 or her duty or the exercise of his or her rights under state
109 law, federal law, the State Constitution, or the United States
110 Constitution, whether such intent is affected or not, commits a
111 felony of the third degree, punishable as provided in s. 775.082
112 or s. 775.083. State attorneys and law enforcement agencies
113 shall strictly enforce without discretion the provisions of this
114 subsection.

115 Section 5. This act shall take effect October 1, 2009.