

By Senator Gelber

35-00607-10

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1                                   A bill to be entitled  
2       An act relating to public procurement; amending s.  
3       838.22, F.S.; providing that a public servant who  
4       fails to advertise, publicly announce, or  
5       electronically post a solicitation for commodities or  
6       contractual services commits a felony of the second  
7       degree under certain circumstances; imposing criminal  
8       penalties; reenacting s. 921.0022(3)(g), F.S.,  
9       relating to the offense severity ranking chart of the  
10      Criminal Punishment Code, to incorporate the amendment  
11      made to s. 838.22, F.S., in a reference thereto;  
12      providing an effective date.

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

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16       Section 1. Section 838.22, Florida Statutes, is amended to  
17      read:

18       838.22 Bid tampering.—

19       (1) It is unlawful for a public servant, with corrupt  
20      intent to influence or attempt to influence the competitive  
21      bidding process undertaken by any state, county, municipal, or  
22      special district agency, or any other public entity, for the  
23      procurement of commodities or services, to:

24       (a) Disclose material information concerning a bid or other  
25      aspects of the competitive bidding process when such information  
26      is not publicly disclosed.

27       (b) Alter or amend a submitted bid, documents or other  
28      materials supporting a submitted bid, or bid results for the  
29      purpose of intentionally providing a competitive advantage to

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30 any person who submits a bid.

31 (c) Fail to advertise, publicly announce, or electronically  
32 post a solicitation for the procurement of commodities or  
33 contractual services which must be advertised, publicly  
34 announced, or electronically posted by statute or rule.

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

40 (3) It is unlawful for any person to knowingly agree,  
41 conspire, combine, or confederate, directly or indirectly, with  
42 a public servant to violate subsection (1) or subsection (2).

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

47 (5) Any person who violates this section commits a felony  
48 of the second degree, punishable as provided in s. 775.082, s.  
49 775.083, or s. 775.084.

50 Section 2. For the purpose of incorporating the amendment  
51 made by this act to section 838.22, Florida Statutes, in a  
52 reference thereto, paragraph (g) of subsection (3) of section  
53 921.0022, Florida Statutes, is reenacted to read:

54 921.0022 Criminal Punishment Code; offense severity ranking  
55 chart.—

56 (3) OFFENSE SEVERITY RANKING CHART

57 (g) LEVEL 7

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	Florida Statute	Felony Degree	Description
58	316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
59	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
60	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
61	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
62	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
63	409.920(2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
64	409.920(2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
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66	456.065 (2)	3rd	Practicing a health care profession without a license.	
67	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
68	458.327 (1)	3rd	Practicing medicine without a license.	
69	459.013 (1)	3rd	Practicing osteopathic medicine without a license.	
70	460.411 (1)	3rd	Practicing chiropractic medicine without a license.	
71	461.012 (1)	3rd	Practicing podiatric medicine without a license.	
72	462.17	3rd	Practicing naturopathy without a license.	
73	463.015 (1)	3rd	Practicing optometry without a license.	
74	464.016 (1)	3rd	Practicing nursing without a license.	
75	465.015 (2)	3rd	Practicing pharmacy without a license.	
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.	

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467.201 3rd Practicing midwifery without a license.

468.366 3rd Delivering respiratory care services without a license.

483.828 (1) 3rd Practicing as clinical laboratory personnel without a license.

483.901 (9) 3rd Practicing medical physics without a license.

484.013 (1) (c) 3rd Preparing or dispensing optical devices without a prescription.

484.053 3rd Dispensing hearing aids without a license.

494.0018 (2) 1st Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.

560.123 (8) (b) 1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

560.125 (5) (a) 3rd Money services business by unauthorized

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person, currency or payment instruments exceeding \$300 but less than \$20,000.

655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

775.21(10)(g) 3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

782.071 2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a

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reckless manner (vehicular homicide).

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782.072 2nd

Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

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784.045 (1) (a) 1. 2nd

Aggravated battery; intentionally causing great bodily harm or disfigurement.

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784.045 (1) (a) 2. 2nd

Aggravated battery; using deadly weapon.

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784.045 (1) (b) 2nd

Aggravated battery; perpetrator aware victim pregnant.

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784.048 (4) 3rd

Aggravated stalking; violation of injunction or court order.

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784.048 (7) 3rd

Aggravated stalking; violation of court order.

98

784.07 (2) (d) 1st

Aggravated battery on law enforcement officer.

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784.074 (1) (a) 1st

Aggravated battery on sexually violent predators facility staff.

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784.08 (2) (a) 1st

Aggravated battery on a person 65 years of age or older.

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784.081 (1) 1st Aggravated battery on specified official or employee.

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784.082 (1) 1st Aggravated battery by detained person on visitor or other detainee.

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784.083 (1) 1st Aggravated battery on code inspector.

104

790.07 (4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).

105

790.16 (1) 1st Discharge of a machine gun under specified circumstances.

106

790.165 (2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

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790.165 (3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

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790.166 (3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

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790.166 (4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction



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while committing or attempting to commit a felony.

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790.23            1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

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794.08(4)        3rd        Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

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796.03            2nd        Procuring any person under 16 years for prostitution.

113

800.04(5)(c)1.   2nd        Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

114

800.04(5)(c)2.   2nd        Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.

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806.01(2)        2nd        Maliciously damage structure by fire or explosive.

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810.02(3)(a)    2nd        Burglary of occupied dwelling; unarmed; no assault or battery.

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118 810.02 (3) (b) 2nd Burglary of unoccupied dwelling;  
unarmed; no assault or battery.

119 810.02 (3) (d) 2nd Burglary of occupied conveyance;  
unarmed; no assault or battery.

120 810.02 (3) (e) 2nd Burglary of authorized emergency  
vehicle.

121 812.014 (2) (a) 1. 1st Property stolen, valued at \$100,000 or  
more or a semitrailer deployed by a law  
enforcement officer; property stolen  
while causing other property damage; 1st  
degree grand theft.

122 812.014 (2) (b) 2. 2nd Property stolen, cargo valued at less  
than \$50,000, grand theft in 2nd degree.

123 812.014 (2) (b) 3. 2nd Property stolen, emergency medical  
equipment; 2nd degree grand theft.

124 812.014 (2) (b) 4. 2nd Property stolen, law enforcement  
equipment from authorized emergency  
vehicle.

125 812.0145 (2) (a) 1st Theft from person 65 years of age or  
older; \$50,000 or more.

812.019 (2) 1st Stolen property; initiates, organizes,

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plans, etc., the theft of property and traffics in stolen property.

126

812.131 (2) (a) 2nd Robbery by sudden snatching.

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812.133 (2) (b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

128

817.234 (8) (a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

129

817.234 (9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

130

817.234 (11) (c) 1st Insurance fraud; property value \$100,000 or more.

131

817.2341 (2) (b) 1st Making false entries of material fact or & (3) (b) false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

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825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

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825.103 (2) (b) 2nd Exploiting an elderly person or disabled

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adult and property is valued at \$20,000  
or more, but less than \$100,000.

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827.03(3)(b) 2nd Neglect of a child causing great bodily  
harm, disability, or disfigurement.

135

827.04(3) 3rd Impregnation of a child under 16 years  
of age by person 21 years of age or  
older.

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837.05(2) 3rd Giving false information about alleged  
capital felony to a law enforcement  
officer.

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838.015 2nd Bribery.

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838.016 2nd Unlawful compensation or reward for  
official behavior.

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838.021(3)(a) 2nd Unlawful harm to a public servant.

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838.22 2nd Bid tampering.

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847.0135(3) 3rd Solicitation of a child, via a computer  
service, to commit an unlawful sex act.

142

847.0135(4) 2nd Traveling to meet a minor to commit an  
unlawful sex act.

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872.06 2nd Abuse of a dead human body.

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874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

148

893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

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- 893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.
- 893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
- 893.135(1)(d)1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
- 893.135(1)(e)1. 1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
- 893.135(1)(f)1. 1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.
- 893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
- 893.135(1)(h)1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
- 893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
- 893.135(1)(k)2.a. 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

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893.1351(2) 2nd Possession of place for trafficking in or manufacturing of controlled substance.

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896.101(5)(a) 3rd Money laundering, financial transactions exceeding \$300 but less than \$20,000.

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896.104(4)(a)1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

161

943.0435(4)(c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.

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943.0435(8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

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943.0435(9)(a) 3rd Sexual offender; failure to comply with reporting requirements.

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943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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943.0435(14) 3rd Sexual offender; failure to report and

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reregister; failure to respond to  
address verification.

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944.607(9) 3rd Sexual offender; failure to comply with  
reporting requirements.

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944.607(10)(a) 3rd Sexual offender; failure to submit to  
the taking of a digitized photograph.

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944.607(12) 3rd Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

169

944.607(13) 3rd Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

170

985.4815(10) 3rd Sexual offender; failure to submit to  
the taking of a digitized photograph.

171

985.4815(12) 3rd Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

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985.4815(13) 3rd Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

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Section 3. This act shall take effect July 1, 2010.