

By Senator Gaetz

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1 A bill to be entitled
2 An act relating to public corruption; amending s.
3 838.014, F.S.; deleting the definition of the term
4 "corruptly" or "with corrupt intent"; defining the
5 term "governmental entity"; expanding the definition
6 of the term "public servant" to include certain
7 persons who are acting on behalf of a governmental
8 entity; amending s. 838.015, F.S.; redefining the term
9 "bribery" to include knowing and intentional, rather
10 than corrupt, acts; amending s. 838.016, F.S.;
11 revising the prohibition against unlawful compensation
12 or reward for official behavior to conform to changes
13 made by the act; amending s. 838.022, F.S.; revising
14 the prohibition against official misconduct to conform
15 to changes made by the act; amending s. 838.22, F.S.;
16 revising the prohibition against bid tampering to
17 conform to changes made by the act; reenacting s.
18 817.568(11), F.S., relating to criminal use of
19 personal identification information, to incorporate
20 the amendment made to s. 838.014, F.S., in a reference
21 thereto; providing an effective date.

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

24
25 Section 1. Section 838.014, Florida Statutes, is amended to
26 read:

27 838.014 Definitions.—As used in this chapter, the term:

28 (1) "Benefit" means gain or advantage, or anything regarded
29 by the person to be benefited as a gain or advantage, including

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30 the doing of an act beneficial to any person in whose welfare he
 31 or she is interested, including any commission, gift, gratuity,
 32 property, commercial interest, or any other thing of economic
 33 value not authorized by law.

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

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

41 (4) "Governmental entity" means the state, including any
 42 unit of the executive, legislative, and judicial branches of
 43 government, political subdivisions and any agency or office
 44 thereof, or any other public entity that independently exercises
 45 any type of governmental function ~~"Corruptly" or "with corrupt~~
 46 ~~intent" means acting knowingly and dishonestly for a wrongful~~
 47 ~~purpose.~~

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

50 (6) "Public servant" means:

51 (a) Any officer or employee of a governmental state,
 52 ~~county, municipal, or special district agency or entity;~~

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

54 (c) Any person, except a witness, who acts as a general or
 55 special magistrate, receiver, auditor, arbitrator, umpire,
 56 referee, consultant, or hearing officer while performing a
 57 governmental function; ~~or~~

58 (d) A candidate for election or appointment to any of the

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59 positions listed in this subsection, or an individual who has
60 been elected to, but has yet to officially assume the
61 responsibilities of, public office; or

62 (e) To the extent that the individual's conduct relates to
63 the performance of a public duty of a governmental entity, any
64 officer, director, partner, manager, representative, or employee
65 of a nongovernmental entity, private corporation, quasi-public
66 corporation, or quasi-public entity, or any person subject to
67 chapter 119 who is acting on behalf of a governmental entity.

68 For purposes of this paragraph, "nongovernmental entity" means a
69 person, association, cooperative, corporation, partnership,
70 organization, or other entity, whether operating for profit or
71 not for profit, which is not a governmental entity.

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

74 Section 2. Subsection (1) of section 838.015, Florida
75 Statutes, is amended to read:

76 838.015 Bribery.—

77 (1) For purposes of this section, "bribery" means ~~corruptly~~
78 to knowingly and intentionally give, offer, or promise to any
79 public servant, or, if a public servant, ~~corruptly~~ to knowingly
80 and intentionally request, solicit, accept, or agree to accept
81 for himself or herself or another, any pecuniary or other
82 benefit not authorized by law with an intent or purpose to
83 influence the performance of any act or omission which the
84 person believes to be, or the public servant represents as
85 being, within the official discretion of a public servant, in
86 violation of a public duty, or in performance of a public duty.

87 Section 3. Subsections (1) and (2) of section 838.016,

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88 Florida Statutes, are amended to read:

89 838.016 Unlawful compensation or reward for official
90 behavior.—

91 (1) It is unlawful for any person ~~corruptly~~ to knowingly
92 and intentionally give, offer, or promise to any public servant,
93 or, if a public servant, ~~corruptly~~ to knowingly and
94 intentionally request, solicit, accept, or agree to accept, any
95 pecuniary or other benefit not authorized by law, for the past,
96 present, or future performance, nonperformance, or violation of
97 any act or omission which the person believes to have been, or
98 the public servant represents as having been, either within the
99 official discretion of the public servant, in violation of a
100 public duty, or in performance of a public duty. This section
101 may not ~~Nothing herein shall~~ be construed to preclude a public
102 servant from accepting rewards for services performed in
103 apprehending any criminal.

104 (2) It is unlawful for any person ~~corruptly~~ to knowingly
105 and intentionally give, offer, or promise to any public servant,
106 or, if a public servant, ~~corruptly~~ to knowingly and
107 intentionally request, solicit, accept, or agree to accept, any
108 pecuniary or other benefit not authorized by law for the past,
109 present, or future exertion of any influence upon or with any
110 other public servant regarding any act or omission which the
111 person believes to have been, or which is represented to him or
112 her as having been, either within the official discretion of the
113 other public servant, in violation of a public duty, or in
114 performance of a public duty.

115 Section 4. Subsection (1) of section 838.022, Florida
116 Statutes, is amended, and subsection (2) of that section is

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117 republished, to read:

118 838.022 Official misconduct.—

119 (1) It is unlawful for a public servant, ~~with corrupt~~
120 ~~intent~~ to knowingly and intentionally obtain an improper a
121 benefit for any person or to cause unlawful harm to another, by
122 ~~to~~:

123 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to
124 falsify, any official record or official document;

125 (b) Concealing, covering up, destroying, mutilating, or
126 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any
127 official record or official document or causing ~~cause~~ another
128 person to perform such an act; or

129 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~
130 ~~or prevent~~ the communication of information relating to the
131 commission of a felony that directly involves or affects the
132 governmental ~~public agency or public~~ entity served by the public
133 servant.

134 (2) For the purposes of this section:

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

137 (b) An official record or official document includes only
138 public records.

139 Section 5. Subsections (1) and (2) of section 838.22,
140 Florida Statutes, are amended to read:

141 838.22 Bid tampering.—

142 (1) It is unlawful for a public servant, ~~with corrupt~~
143 ~~intent~~ to knowingly and intentionally influence or attempt to
144 influence, in an improper manner, the competitive bidding
145 process undertaken by any governmental ~~state, county, municipal,~~

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146 ~~or special district agency, or any other public entity,~~ for the
147 procurement of commodities or services, by ~~to~~:

148 (a) Disclosing ~~Disclose~~ material information concerning a
149 bid or other aspects of the competitive bidding process when
150 such information is not publicly disclosed.

151 (b) Altering or amending ~~Alter or amend~~ a submitted bid,
152 documents or other materials supporting a submitted bid, or bid
153 results for the purpose of intentionally providing a competitive
154 advantage to any person who submits a bid.

155 (2) It is unlawful for a public servant, ~~with corrupt~~
156 ~~intent~~ to knowingly and intentionally obtain an improper a
157 benefit for any person or to cause unlawful harm to another, to
158 circumvent a competitive bidding process required by law or rule
159 by using a sole-source contract for commodities or services.

160 Section 6. For the purpose of incorporating the amendment
161 made by this act to section 838.014, Florida Statutes, in a
162 reference thereto, subsection (11) of section 817.568, Florida
163 Statutes, is reenacted to read:

164 817.568 Criminal use of personal identification
165 information.—

166 (11) A person who willfully and without authorization
167 fraudulently uses personal identification information concerning
168 an individual who is 60 years of age or older; a disabled adult
169 as defined in s. 825.101; a public servant as defined in s.
170 838.014; a veteran as defined in s. 1.01; a first responder as
171 defined in s. 125.01045; an individual who is employed by the
172 State of Florida; or an individual who is employed by the
173 Federal Government without first obtaining the consent of that
174 individual commits a felony of the second degree, punishable as

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175 provided in s. 775.082, s. 775.083, or s. 775.084.

176 Section 7. This act shall take effect October 1, 2016.