



**FLORIDA LAWS PERTINENT TO A DISCRIMINATION CASE
CHAPTER 838: BRIBERY, MISUSE OF PUBLIC OFFICE
(ALL-IN-ONE DOCUMENT)**

ENTIRE CHAPTER

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CHAPTER 838 FLORIDA STATUTES | FLORIDA

TITLE: XLVI CRIMES

CHAPTER: 838 BRIBERY; MISUSE OF PUBLIC OFFICE

PART:

SECTIONS: §838.014 through §838.23

NOTE: Entire Chapter



§838.014 FS | DEFINITIONS

As used in this chapter, the term:

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefited as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he or she is interested, including any commission, gift, gratuity, property, commercial interest, or any other thing of economic value not authorized by law.

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

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

(4) "Governmental entity" means an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law.

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

(6) "Public contractor" means, for purposes of ss. 838.022 and 838.22 only:

(a) Any person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity; or

(b) Any officer or employee of a person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity.

(7) "Public servant" means:

(a) Any officer or employee of a governmental entity, including any executive, legislative, or judicial branch officer or employee;

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



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

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

History - (s. 59, ch. 74-383; s. 317, ch. 96-410; s. 1824, ch. 97-102; s. 2, ch. 2003-158; s. 99, ch. 2004-11; s. 1, ch. 2016-151.)

§838.015 FS | BRIBERY

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

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, that the public servant had assumed office, that the matter was properly pending before him or her or might by law properly be brought before him or her, that the public servant possessed jurisdiction over the matter, or that his or her official action was necessary to achieve the person's purpose.

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

History - (s. 60, ch. 74-383; s. 35, ch. 75-298; s. 44, ch. 91-110; s. 1314, ch. 97-102; s. 3, ch. 2003-158; s. 2, ch. 2016-151.)



§838.016 FS | UNLAWFUL COMPENSATION OR REWARD FOR OFFICIAL BEHAVIOR

(1) It is unlawful for any person to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. This section does not preclude a public servant from accepting rewards for services performed in apprehending any criminal.

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

(3) Prosecution under this section shall not require that the exercise of influence or official discretion, or violation of a public duty or performance of a public duty, for which a pecuniary or other benefit was given, offered, promised, requested, or solicited was accomplished or was within the influence, official discretion, or public duty of the public servant whose action or omission was sought to be rewarded or compensated.

(4) Whoever violates the provisions of this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (s. 60, ch. 74-383; s. 36, ch. 75-298; s. 1315, ch. 97-102; s. 4, ch. 2003-158; s. 3, ch. 2016-151.)



§838.021 FS | CORRUPTION BY THREAT AGAINST PUBLIC SERVANT

(1) It is unlawful to harm or threaten to harm any public servant, his or her immediate family, or any other person with whose welfare the public servant is interested with the intent to:

(a) Influence the performance of any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.

(b) Cause or induce the public servant to use or exert, or procure the use or exertion of, any influence upon or with any other public servant regarding any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.

(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, that the public servant had assumed office, that the matter was properly pending before him or her or might by law properly be brought before him or her, that the public servant possessed jurisdiction over the matter, or that his or her official action was necessary to achieve the person's purpose.

(3)

(a) Whoever unlawfully harms any public servant or any other person with whose welfare the public servant is interested shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Whoever threatens unlawful harm to any public servant or to any other person with whose welfare the public servant is interested shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (s. 61, ch. 74-383; s. 37, ch. 75-298; s. 1316, ch. 97-102; s. 13, ch. 2010-117.)



§838.022 FS | OFFICIAL MISCONDUCT

(1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by:

(a) Falsifying, or causing another person to falsify, any official record or official document;

(b) Concealing, covering up, destroying, mutilating, or altering any official record or official document, except as authorized by law or contract, or causing another person to perform such an act; or

(c) Obstructing, delaying, or preventing the communication of information relating to the commission of a felony that directly involves or affects the government entity served by the public servant or public contractor.

(2) For the purposes of this section:

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

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

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

History - (s. 5, ch. 2003-158; s. 4, ch. 2016-151.)



§838.12 FS | BRIBERY IN ATHLETIC CONTESTS

(1) Whoever gives, promises, offers or conspires to give, promise or offer, to anyone who participates or expects to participate in any professional or amateur game, contest, match, race or sport; or to any umpire, referee, judge or other official of such game, contest, match, race or sport; or to any owner, manager, coach or trainer of, or to any relative of, or to any person having any direct, indirect, remote or possible connection with, any team, individual, participant or prospective participant in any such professional or amateur game, contest, match, race or sport, or the officials aforesaid, any bribe, money, goods, present, reward or any valuable thing whatsoever, or any promise, contract or agreement whatsoever, with intent to influence him or her or them to lose or cause to be lost any game, contest, match, race or sport, or to limit his or her or their or any person's or any team's margin of victory in any game, contest, match, race, or sport, or to fix or throw any game, contest, match, race or sport, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any participant or prospective participant in any professional or amateur game, contest, match, race or sport; or any umpire, referee, judge or other official of such game, contest, match, race or sport; or any owner, manager, coach or trainer of, or any relative of, or any person having any direct, indirect, remote or possible connection with, any team, individual, participant or prospective participant in any such professional or amateur game, contest, match, race or sport, or the officials aforesaid; who in any way solicits, receives or accepts, or agrees to receive or accept, or who conspires to receive or accept, any bribe, money, goods, present, reward or any valuable thing whatsoever, or any promise, contract or agreement whatsoever, with intent to lose or cause to be lost any game, contest, match, race or sport, or to limit his, her, their or any person's or any team's margin of victory in any game, contest, match, race or sport, or to fix or throw any game, contest, match, race or sport, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (ss. 1, 2, ch. 28024, 1953; s. 1010, ch. 71-136; s. 1317, ch. 97-102.)



§838.15 FS | COMMERCIAL BRIBE RECEIVING

(1) A person commits the crime of commercial bribe receiving if the person solicits, accepts, or agrees to accept a benefit with intent to violate a statutory or common-law duty to which that person is subject as:

(a) An agent or employee of another;

(b) A trustee, guardian, or other fiduciary;

(c) A lawyer, physician, accountant, appraiser, or other professional adviser;

(d) An officer, director, partner, manager, or other participant in the direction of the affairs of an organization; or

(e) An arbitrator or other purportedly disinterested adjudicator or referee.

(2) Commercial bribe receiving is a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (s. 1, ch. 90-301.)

§838.16 FS | COMMERCIAL BRIBERY

(1) A person commits the crime of commercial bribery if, knowing that another is subject to a duty described in s. 838.15(1) and with intent to influence the other person to violate that duty, the person confers, offers to confer, or agrees to confer a benefit on the other.

(2) Commercial bribery is a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (s. 2, ch. 90-301)

§838.21 FS | DISCLOSURE OR USE OF CONFIDENTIAL CRIMINAL JUSTICE INFORMATION

It is unlawful for a public servant, with intent to obstruct, impede, or prevent a criminal investigation or a criminal prosecution, to disclose active criminal investigative or intelligence information as defined in chapter 119 or to disclose or use information regarding either the efforts to secure or the issuance of a warrant, subpoena, or other court process or court order relating to a criminal investigation or criminal prosecution when such information is not available to the general public and is gained by reason of the public servant's official position. Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History - (s. 5, ch. 2003-158.)

§838.22 FS | BID TAMPERING

(1) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to knowingly and intentionally influence or attempt to influence the competitive solicitation undertaken by any governmental entity for the procurement of commodities or services, by:

(a) Disclosing, except as authorized by law, material information concerning a vendor's response, any evaluation results, or other aspects of the competitive solicitation when such information is not publicly disclosed.

(b) Altering or amending a submitted response, documents or other materials supporting a submitted response, or any evaluation results relating to the competitive solicitation for the purpose of intentionally providing a competitive advantage to any person who submits a response.

(2) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another by circumventing a competitive solicitation process required by law or rule through the use of a sole-source contract for commodities or services.

(3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to violate subsection (1) or subsection (2).

(4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement acting in violation of subsection (1) or subsection (2).

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



History - (s. 5, ch. 2003-158; s. 5, ch. 2016-151.)



§838.23 FS | RESTITUTION AND COMMUNITY SERVICE

A person who is convicted of any offense in this chapter shall be ordered by the sentencing judge to make restitution to the victim of the offense if, after conducting a hearing, the judge finds that the victim suffered an actual financial loss caused directly or indirectly by the person's offense or an actual financial loss related to the person's criminal episode. A person who is convicted of any offense in this chapter shall also be ordered to perform 250 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence that may be imposed and may not be in lieu thereof.

History - (s. 2, ch. 2015-132.)

APPENDIX



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