INTRODUCED AT THE REQUEST OF THE ATTORNEY GENERAL

2008

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

AN ACT

RELATING TO CRIMINAL OFFENSES

Introduced By:

Date Introduced By:

Referred To:

It is enacted by the General Assembly as follows:

SECTION 1. Title 11 of the General Laws entitled "Criminal Offenses" is hereby amended by adding thereto the following chapter.

Chapter 11-68

Crimes Against the Public Trust

11-68-1. Short Title. – This act shall be known and may be cited as the "Government Integrity and Public Accountability Act of 2008."

11-68-2. Legislative Findings. – The general assembly finds and declares that:

(a) Government integrity is the backbone of efficient and effective state and municipal governments.

(b) Instances of abuse of the public trust have had a negative impact on the operation of state and municipal governments.

(c) Abuse of the public trust erodes confidence in government and deprives the citizens of the State of Rhode Island of a government that operates in furtherance of the public good.

(d) The citizens of the State of Rhode Island have the intangible right to an open and accountable government and public servants that are held to honest and ethical standards.

(e) The public needs assurance that the State of Rhode Island and its cities and towns are operating in good faith.

(f) In order to provide a safeguard against abuse of the public trust by public servants at all levels, the general assembly declares that public servants have a duty to provide the citizens of the State of Rhode Island impartial, unbiased and honest service.

11-68-3. Definitions. – (a) As used in this chapter:

(1) "Public servant" means:

(i) any full-time or part-time employee in the classified, non-classified and unclassified service of the state or of any city or town employee within the state, any individual serving in any appointed state or municipal position, any employee of any public or quasi-public state or municipal board, commission or corporation, and any contractual employee of the state or any city or town within the state;

(ii) any officer or member of a state or municipal agency as defined in §36-14-2(8) who is appointed for a term of office specified by the constitution or a statute of this state or a charter or ordinance of any city or town or who is appointed by or through the governing body or highest official of state or municipal government; or

(iii) any person holding any elective public office pursuant to a general or special election.

11-68-4. Theft of Honest Services. – (a) It shall be unlawful for any public servant to fraudulently engage in, or attempt to engage in, any conduct that deprives the public of the intangible right of his or her honest services.

(b) Any person convicted of a violation of this section shall be guilty of a felony and subject to imprisonment of up to ten (10) years or a fine of not more than one hundred fifty thousand dollars ($150,000), or both.

11-68-5 Civil Damages for Engaging in Illegal Acts. – In addition to any criminal penalties, a public servant convicted of a misdemeanor or felony or attempted felony or misdemeanor under the laws of the United States, the State of Rhode Island or any other political subdivision knowingly committed in his or her official capacity shall be liable for anything of value received by him or her in the course of such violation. Action for recovery of amounts

under this section shall be brought in the superior court of the county in which any element of the crime occurred. The actions shall be brought in the name of the state by the Attorney General for the benefit and use of the state.

SECTION 2. Section 12-12-17 of the General Laws in Chapter 12-12 entitled "Indictments, Informations and Complaints" is hereby amended to read as follows:

12-12-17. Statute of limitations. – (a) There shall be no statute of limitations for the following offenses: treason against the state, any homicide, arson, first degree arson, second degree arson, third degree arson, burglary, counterfeiting, forgery, robbery, rape, first degree sexual assault, first degree child molestation sexual assault, second degree child molestation sexual assault, bigamy, manufacturing, selling, distribution or possession with intent to manufacture, sell or distribute a controlled substance under the Uniform Controlled Substance Act, chapter 28 of title 21, or any other offense for which the maximum penalty provided is life imprisonment.

(b) The statute of limitations for the following offenses shall be ten (10) years: larceny under §11-41-2 (receiving stolen goods), § 11-41-3 (embezzlement and fraudulent conversion), § 11-41-4 (obtaining property by false pretenses or personation), § 11-41-11 (embezzlement by bank officer or employee), § 11-41-12 (fraudulent conversion by agent or factor), and § 11-41-13 (obtaining signature by false pretenses), or any larceny which is punishable as a felony; any violation of chapter 7 of title 11 (bribery); any violation of § 11-18-1 (giving false document to agent, employee, or public official); perjury; any violation of chapter 42 of title 11 (threats and extortion); any violation of chapter 15 of title 7 (racketeer influenced and corrupt organizations); any violation of chapter 57 of title 11 (racketeer violence); ~~or~~ any violation of chapter 36 of title 6 (antitrust law); any violation of §11-41-27 (wrongful conversion by officer or state or municipal employee); or any violation of chapter 68 of title 11 (crimes against the public trust).

(c) The statute of limitations for any other criminal offense shall be three (3) years unless a longer statute of limitations is otherwise provided for in the general laws.

(d) Any person who participates in any offense, either as a principal accessory, or conspirator shall be subject to the same statute of limitations as if the person had committed the substantive offense.

(e) The statute of limitations for any violation of chapter 18.9 of title 23 (refuse disposal), chapter 19 of title 23 (solid waste management corporation), chapter 19.1 of title 23 (hazardous

waste management), chapter 12 of title 46 (water pollution), and chapter 13 of title 46 (public drinking water supply) shall be seven (7) years from the time that the facts constituting the offense or violation shall have become known to law enforcement authorities, unless a longer statute of limitations is otherwise provided for in the general laws.

SECTION 3. The Act shall take effect upon passage.

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO CRIMINAL OFFENSES

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SUGGESTED DRAFT BILL DESCRIPTION:

The act would create a new chapter within Title 11 entitled "crimes against the public trust". This chapter would create the criminal offense, theft of honest services. The act would also amend §12-12-17 extend the statute of limitations to ten years for violations of this new chapter and §11-41-27, wrongful conversion by officer or state or municipal employee.

Further, the act provides that public servants who are convicted of any felony or misdemeanor or attempted felony or misdemeanor that was knowingly committed while in their official capacity would be liable for anything of value received by him or her in the course of such violation to the state.

The act would take effect upon passage.