

# STATE OF NEW YORK

4033

2017-2018 Regular Sessions

## IN SENATE

February 2, 2017

Introduced by Sen. KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to official misconduct

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 195.00 of the penal law, as amended by chapter 906  
2 of the laws of 1990, is amended to read as follows:  
3 § 195.00 Official misconduct in the third degree.  
4 A public servant is guilty of official misconduct in the third degree  
5 when, with intent to obtain a benefit or deprive another person of a  
6 benefit:  
7 1. He or she commits an act relating to his or her office but consti-  
8 tuting an unauthorized exercise of his or her official functions, know-  
9 ing that such act is unauthorized; or  
10 2. He or she knowingly refrains from performing a duty which is  
11 imposed upon him or her by law or is clearly inherent in the nature of  
12 his or her office.  
13 Official misconduct in the third degree is a class [~~A—misdemeanor~~] E  
14 felony.  
15 § 2. The penal law is amended by adding two new sections 195.03 and  
16 195.04 to read as follows:  
17 § 195.03 Official misconduct in the second degree.  
18 A public servant is guilty of official misconduct in the second degree  
19 when he or she commits the crime of official misconduct in the third  
20 degree and he or she obtains any benefit or deprives another person of a  
21 benefit valued in excess of one thousand dollars.  
22 Official misconduct in the second degree is a class D felony.  
23 § 195.04 Official misconduct in the first degree.  
24 A public servant is guilty of official misconduct in the first degree  
25 when he or she commits the crime of official misconduct in the third

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 degree and he or she obtains any benefit or deprives another person of a  
2 benefit valued in excess of three thousand dollars.  
3 Official misconduct in the first degree is a class C felony.  
4 § 3. This act shall take effect immediately.