# STATE OF NEW YORK

4033--A

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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing crimes relating to official misconduct for obtaining a benefit

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

Section 1. Subdivisions 1 and 2 of section 195.00 of the penal law, as amended by chapter 906 of the laws of 1990, are amended to read as follows:

1. He **or she** commits an act relating to his **or her** office but constituting an unauthorized exercise of his **or her** official functions, knowing that such act is unauthorized; or

2. He **or she** knowingly refrains from performing a duty which is imposed upon him **or her** by law or is clearly inherent in the nature of his **or her** office.

§ 2. The penal law is amended by adding two new sections 195.03 and 195.04 to read as follows:

**§ 195.03 Official misconduct for obtaining a benefit in the second degree.**

**A public servant is guilty of official misconduct for obtaining a benefit in the second degree when he or she commits the crime of official misconduct and he or she thereby intentionally obtains any benefit for himself or herself or for another person or intentionally deprives another person of a benefit, and the value of the benefit exceeds one thousand dollars.**

**Official misconduct for obtaining a benefit in the second degree is a class E felony.**

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

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**§ 195.04 Official misconduct for obtaining a benefit in the first degree.**

**A public servant is guilty of official misconduct for obtaining a benefit in the first degree when he or she commits the crime of official misconduct for obtaining a benefit in the second degree, and the value of the benefit exceeds three thousand dollars.**

**Official misconduct for obtaining a benefit in the first degree is a class D felony.**

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.