

# STATE OF NEW YORK

395

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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 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:

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.

4 A public servant is guilty of official misconduct when, with intent to  
5 obtain a benefit or deprive another person of a benefit:

6 1. He or she commits an act relating to his or her office but consti-  
7 tuting an unauthorized exercise of his or her official functions, know-  
8 ing that such act is unauthorized; or

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

12 Official misconduct is a class [~~A misdemeanor~~] E felony.

13 § 2. The penal law is amended by adding two new sections 195.03 and  
14 195.04 to read as follows:

15 § 195.03 Official misconduct for obtaining a benefit in the second  
16 degree.

17 A public servant is guilty of official misconduct for obtaining a  
18 benefit in the second degree when he or she commits the crime of offi-  
19 cial misconduct and he or she thereby intentionally obtains any benefit  
20 for himself or herself or for another person or intentionally deprives  
21 another person of a benefit, and the value of the benefit exceeds one  
22 thousand dollars.

23 Official misconduct for obtaining a benefit in the second degree is a  
24 class D felony.

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

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1 § 195.04 Official misconduct for obtaining a benefit in the first  
2 degree.

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

7 Official misconduct for obtaining a benefit in the first degree is a  
8 class C felony.

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