

Senate Bill No. 172

An act relating to violation of the election code; amending s. 104.091, F.S.; providing that any person who conspires with another person to violate the election code or who knowingly gives aid to a person who has violated the code with intent to help such person avoid or escape detection, arrest, trial, or punishment shall be punished as if he or she had committed the violation; providing penalties; amending s. 777.04, F.S.; exempting certain violations of the Florida Election Code from provisions specifying the ranking of an offense under the Criminal Punishment Code; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 104.091, Florida Statutes, is amended to read:

104.091 Aiding, abetting, ~~or~~ advising, or conspiring in violation of the code.—

(1) Any person who ~~shall~~ knowingly aids, abets, or advises aid, abet or advise the violation of this code shall be punished in like manner as the principal offender.

(2) Any person who agrees, conspires, combines, or confederates with another person to commit a violation of this code shall be punished as if he or she had committed the violation.

(3) Any person who knows of a felony violation of this code and gives any aid to the offender who has violated this code, with intent that the offender avoid or escape detection, arrest, trial, or punishment, shall be punished as if he or she had committed the violation. This subsection does not prohibit a member of The Florida Bar from giving legal advice to a client.

Section 2. Subsection (4) of section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(4)(a) Except as otherwise provided in ss. 104.091(2), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under s. 921.0022 or s. 921.0023 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy

is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 104.091(2), s. 828.125(2), or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;
2. Burglary that is a felony of the third degree; or
3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 104.091(2), s. 849.25(4), or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) Except as otherwise provided in s. 104.091(2), if the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. This act shall take effect October 1, 2002.

Approved by the Governor May 1, 2002.

Filed in Office Secretary of State May 1, 2002.