

§ 3202. Misconduct in Public Office.

(a) “Public official” means any public servant.

(b) A person, being a public official, commits the offense of misconduct in public office if the person:

(1) does any illegal act under the color of office, or

(2) knowingly neglects to perform the duties of the person’s office as provided by any law, including any constitution, statute, regulation or rule.

(c) A conviction under subsection (b)(1) is punishable by imprisonment for not more than 10 years and a fine of not more than \$50,000 if the illegal act was a felony offense.

(d) A conviction under subsection (b)(1) is punishable by imprisonment for not more than 2 years and a fine of not more than \$1,500 if the illegal act was a misdemeanor.

(e) A conviction under subsection (b)(1) is punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000, or both if the illegal act was not a criminal offense.

(f) A conviction under subsection (b)(2) is punishable by imprisonment for not more than 10 years and a fine of not more than \$50,000 if the neglect resulted in the total illegal expenditure of \$100,000 or more.

(g) A conviction under subsection (b)(2) is punishable by not more than 2 years and a fine of not more than \$1,500 if the neglect resulted in the total illegal expenditure of less than \$100,000.

(h) A conviction under subsection (b)(2) is punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000 or both if the neglect did not result in any illegal expenditure or the amount of the illegal expenditure cannot be determined.

(i) The court shall order any sentence of imprisonment for this offense to run consecutive to any other sentence imposed that arose from the same criminal transaction.

Source: 11 TTC § 1051; PL 23-6, § 3 (Aug. 1, 2023).

Commission Comment: *Legislative Findings of 2023 Amendment.*—In addition to severability and savings clause provisions, PL 23-6 included the following Findings and Purposes section:

Section 1. Findings and Purposes. The Legislature finds that public service is a privilege entrusted to certain individuals, commonly referred to as public servants and/or public officials, to provide service to all members of the community. Cognizant of such an honorable privilege, these individuals, whether elected or appointed, are regarded in high esteem as they are intended to serve for the common good of the general population. The Legislature further finds that as public servants/public officials, they must be held to a standard commensurate to the high esteem in which they are held.

TITLE 6: CRIMES AND CRIMINAL PROCEDURES
DIVISION 3: MISCELLANEOUS OFFENSES

This legislation provides an expanded and clarified definition of official misconduct and assigns specific felony and misdemeanor punishments, depending on the type of underlying misconduct. As the CNMI Supreme Court has noted, the Penal Code does not expressly define who is a “public official” for the offense of official misconduct, making it subject to some interpretation. *CNMI v. Kaipat*, 2 N.M.I 322 (SC 1991) (discussing whether police officer is a public official in the absence of statutory definition). This bill defines the phrase by referencing the statutory definition of “public servant” in the Penal Code. This bill also enhances the punishments associated with the crime of misconduct in public office by applying felony punishment ranges to the most serious acts of misconduct and the loss of substantial amounts of public funds.