

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 163                      Offenses by Public Officers and Employees  
**SPONSOR(S):** Detert  
**TIED BILLS:** none                      **IDEN./SIM. BILLS:** SB 1840 (i)

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration		Bond	Everhart
2)			
3)			
4)			
5)			

---

**SUMMARY ANALYSIS**

Current law provides that a public officer or employee who commits certain offenses forfeits his or her state pension. This bill adds child abuse and child neglect to the list of enumerated offenses, and adds that a public officer or employee convicted of child abuse or neglect also forfeits the value of his or her accrued leave balances.

This bill may have a positive impact on state and local government expenditures, although the amount of such impact cannot be determined.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0163.sa.doc  
**DATE:** March 23, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Not applicable.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Section 112.3173, F.S., provides that a public officer or employee who is convicted of certain felonies will forfeit his or her public retirement account. The enumerated felonies are embezzlement of public funds; theft from the public employer, bribery, or misuse of office.

Section 827.03, F.S., defines the crimes of child abuse and neglect. Child abuse is the intentional infliction of physical or mental injury upon a child, an intentional act that could reasonably be expected to result in physical or mental injury to a child, or active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child. Neglect is a caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or a caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

##### Effect of Bill

This bill amends s. 112.3173, F.S., to provide that a public officer or employee convicted of child abuse, as defined in s. 827.03, F.S., forfeits his or her retirement account. This bill also provides that a public officer or employee convicted of child abuse forfeits all accrued sick leave and annual leave.

#### C. SECTION DIRECTORY:

Section 1 amends s. 112.3173, F.S., to provide for forfeiture of certain benefits.

Section 2 provides an effective date of upon becoming law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

This bill may result in a minimal positive impact on expenditures, the amount of which is dependent upon how many, if any, employees lose benefits as a result of this bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

This bill may result in a minimal positive impact on expenditures, the amount of which is dependent upon how many, if any, employees lose benefits as a result of this bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

Art. II, s. 8(d), Fla.Const., provides: "Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law."

As written, this bill would cause forfeiture of a pension even in situations where the public officer or employee was not abusing his or her position. For instance, forfeiture would be required where the public officer or employee was convicted of abusing or neglecting his or her own child. A court might find that such offense is not a "breach of public trust", and that accordingly the forfeiture of pension benefits is beyond the scope of authority vested in art. II, s. 8(d), Fla.Const.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

n/a