

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration	5 Y, 0 N w/CS	Bond	Everhart
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

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

This bill may have a minimal 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: h0163a.sa.doc
DATE: March 29, 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. Those felonies are: embezzlement of public funds; theft from the public employer, bribery, or misuse of office.

Section 794.011, F.S., defines the crime of sexual battery.¹

Effect of Bill

This bill amends s. 112.3173, F.S., to provide that a public officer or employee forfeits retirement and accrued leave balances if:

- The officer or employee is convicted of sexual battery, as defined in s. 794.011, F.S.
- The victim was a minor.
- The officer or employee, but for the illegal act, would have been acting within the scope of his or her employment at the time of the offense.

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.

¹ Sexual battery is the unlawful oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

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."

This bill has been amended to require a link between the offense and the governmental employment, thus providing for a "breach of public trust" necessary for the forfeiture of pension benefits, as required by art. II, s. 8(d), Fla.Const.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 29, 2004, the Committee on State Administration adopted one amendment to this bill. The bill changed the requisite offense from child abuse to sexual battery on a minor, and the amendment adds a condition that the offense be work-related. The bill was then reported favorably with a committee substitute.