

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to offenses by public officers and
7 employees; amending s. 112.3173, F.S.; providing that a
8 public officer or employee convicted of sexual battery
9 upon a minor victim at a time and place where the public
10 officer or employee was supposed to be conducting official
11 business shall forfeit certain benefits; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 112.3173, Florida Statutes, is amended
17 to read:

18 112.3173 Felonies involving breach of public trust and
19 other specified offenses by public officers and employees;
20 forfeiture of ~~retirement~~ benefits.--

21 (1) INTENT.--It is the intent of the Legislature to
22 implement the provisions of s. 8(d), Art. II of the State
23 Constitution.

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24 (2) DEFINITIONS.--As used in this section, unless the
25 context otherwise requires, the term:

26 (a) "Conviction" and "convicted" mean an adjudication of
27 guilt by a court of competent jurisdiction; a plea of guilty or
28 of nolo contendere; a jury verdict of guilty when adjudication
29 of guilt is withheld and the accused is placed on probation; or
30 a conviction by the Senate of an impeachable offense.

31 (b) "Court" means any state or federal court of competent
32 jurisdiction which is exercising its jurisdiction to consider a
33 proceeding involving the alleged commission of a specified
34 offense.

35 (c) "Public officer or employee" means an officer or
36 employee of any public body, political subdivision, or public
37 instrumentality within the state.

38 (d) "Public retirement system" means any retirement system
39 or plan to which the provisions of part VII of this chapter
40 apply.

41 (e) "Specified offense" means:

42 1. The committing, aiding, or abetting of an embezzlement
43 of public funds;

44 2. The committing, aiding, or abetting of any theft by a
45 public officer or employee from his or her employer;

46 3. Bribery in connection with the employment of a public
47 officer or employee;

48 4. Any felony specified in chapter 838, except ss. 838.15
49 and 838.16;

50 5. Sexual battery, as defined in s. 794.011, if the victim
51 was a minor and the sexual battery was perpetrated at a time or

52 | place where the public officer or employee would be deemed to
 53 | have been performing official duties but for the commission of
 54 | the sexual battery;

55 | ~~6.5.~~ The committing of an impeachable offense; or
 56 | ~~7.6.~~ The committing of any felony by a public officer or
 57 | employee who, willfully and with intent to defraud the public or
 58 | the public agency for which the public officer or employee acts
 59 | or in which he or she is employed of the right to receive the
 60 | faithful performance of his or her duty as a public officer or
 61 | employee, realizes or obtains, or attempts to realize or obtain,
 62 | a profit, gain, or advantage for himself or herself or for some
 63 | other person through the use or attempted use of the power,
 64 | rights, privileges, duties, or position of his or her public
 65 | office or employment position.

66 | (3) FORFEITURE.--

67 | (a) Any public officer or employee who is convicted of a
 68 | specified offense committed prior to retirement, or whose office
 69 | or employment is terminated by reason of his or her admitted
 70 | commission, aid, or abetment of a specified offense, shall
 71 | forfeit all rights and benefits under any public retirement
 72 | system of which he or she is a member, except for the return of
 73 | his or her accumulated contributions as of the date of
 74 | termination.

75 | (b) Any public officer or employee who is convicted of
 76 | sexual battery, as defined in s. 794.011, if the victim was a
 77 | minor and the sexual battery was perpetrated at a time or place
 78 | where the public officer or employee would be deemed to have
 79 | been performing official duties but for the commission of the

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80 sexual battery, shall, in addition to the penalty provided in
81 paragraph (a), forfeit accumulated sick leave, forfeit
82 accumulated annual leave, and be ineligible for the payment of
83 salary for any period during which the public officer or
84 employee was suspended pending investigation of, or trial on,
85 the charge of sexual battery.

86 (4) NOTICE.--

87 (a) The clerk of a court in which a proceeding involving a
88 specified offense is being conducted against a public officer or
89 employee shall furnish notice of the proceeding to the
90 Commission on Ethics. Such notice is sufficient if it is in the
91 form of a copy of the indictment, information, or other document
92 containing the charges. In addition, if a verdict of guilty is
93 returned by a jury or by the court trying the case without a
94 jury, or a plea of guilty or of nolo contendere is entered in
95 the court by the public officer or employee, the clerk shall
96 furnish a copy thereof to the Commission on Ethics.

97 (b) The Secretary of the Senate shall furnish to the
98 Commission on Ethics notice of any proceeding of impeachment
99 being conducted by the Senate. In addition, if such trial
100 results in conviction, the Secretary of the Senate shall furnish
101 notice of the conviction to the commission.

102 (c) The employer of any member whose office or employment
103 is terminated by reason of his or her admitted commission, aid,
104 or abetment of a specified offense shall forward notice thereof
105 to the commission.

106 (d) The Commission on Ethics shall forward any notice and
107 any other document received by it pursuant to this subsection to

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108 | the governing body of the public retirement system of which the
109 | public officer or employee is a member or from which the public
110 | officer or employee may be entitled to receive a benefit. When
111 | called on by the Commission on Ethics, the Department of
112 | Management Services shall assist the commission in identifying
113 | the appropriate public retirement system.

114 | (5) FORFEITURE DETERMINATION.--

115 | (a) Whenever the official or board responsible for paying
116 | benefits under a public retirement system receives notice
117 | pursuant to subsection (4), or otherwise has reason to believe
118 | that the rights and privileges of any person under such system
119 | are required to be forfeited under this section, such official
120 | or board shall give notice and hold a hearing in accordance with
121 | chapter 120 for the purpose of determining whether such rights
122 | and privileges are required to be forfeited. If the official or
123 | board determines that such rights and privileges are required to
124 | be forfeited, the official or board shall order such rights and
125 | privileges forfeited.

126 | (b) Any order of forfeiture of retirement system rights
127 | and privileges is appealable to the district court of appeal.

128 | (c) The payment of retirement benefits ordered forfeited,
129 | except payments drawn from nonemployer contributions to the
130 | retiree's account, shall be stayed pending an appeal as to a
131 | felony conviction. If such conviction is reversed, no retirement
132 | benefits shall be forfeited. If such conviction is affirmed,
133 | retirement benefits shall be forfeited as ordered in this
134 | section.

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135 (d) If any person's rights and privileges under a public
136 retirement system are forfeited pursuant to this section and
137 that person has received benefits from the system in excess of
138 his or her accumulated contributions, such person shall pay back
139 to the system the amount of the benefits received in excess of
140 his or her accumulated contributions. If he or she fails to pay
141 back such amount, the official or board responsible for paying
142 benefits pursuant to the retirement system or pension plan may
143 bring an action in circuit court to recover such amount, plus
144 court costs.

145 (6) FORFEITURE NONEXCLUSIVE.--

146 (a) The forfeiture of retirement rights and privileges
147 pursuant to this section is supplemental to any other forfeiture
148 requirements provided by law.

149 (b) This section does not preclude or otherwise limit the
150 Commission on Ethics in conducting under authority of other law
151 an independent investigation of a complaint which it may receive
152 against a public officer or employee involving a specified
153 offense.

154 Section 2. This act shall take effect upon becoming a law.