

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/7/17
A Bill

HOUSE BILL 1336

By: Representative Tosh

For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE FORFEITURE OF BENEFITS
UNDER A PUBLIC RETIREMENT SYSTEM BY CERTAIN PERSONS;
AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR THE FORFEITURE OF BENEFITS
UNDER A PUBLIC RETIREMENT SYSTEM BY
CERTAIN PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 24, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 3 - Forfeiture of Public Retirement System Benefits

24-1-301. Definitions.

As used in this subchapter:

(1) "Beneficiary" means an individual who receives or is designated by a member or retirant to receive a plan benefit under a retirement system; and

(2) "Retirement system" means:

(A) The Arkansas Teacher Retirement System, established by § 24-7-201;

(B) The Arkansas State Highway Employees' Retirement System, established by § 24-5-103;

(C) The Arkansas Public Employees' Retirement System, established by § 24-4-103;



(D) The State Police Retirement System, established by § 24-6-203;

(E) The Arkansas Judicial Retirement System, established by § 24-8-201 et seq.;

(F) An alternate retirement plan for:

(i) A college, university, or the Department of Higher Education provided for under § 24-7-801 et seq.; or

(ii) A vocational-technical school or the Department of Career Education provided for under § 24-7-901 et seq.;

(G) The Arkansas Local Police and Fire Retirement System provided for under § 24-10-101 et seq; or

(H) A firemen's relief and pension fund or a policemen's pension and relief fund provided for under § 24-11-101 et seq.

24-1-302. Forfeiture of benefits.

(a)(1) A beneficiary forfeits his or her right to benefit payments under a retirement system if he or she:

(A) Is convicted by a court of competent jurisdiction of the unlawful killing of the member or retirant;

(B) Pleads guilty or nolo contendere to the unlawful killing of the member or retirant;

(C) Is found liable by a court of competent jurisdiction for the unlawful killing of the member or retirant by a preponderance of the evidence in a civil action;

(D) Is acquitted by a court of competent jurisdiction for the unlawful killing of the member or retirant by reason of insanity, mental defect or disease, or any other mental incapacity; or

(E) Is found by a court of competent jurisdiction to lack the capacity to understand or effectively assist in defending a criminal proceeding against himself or herself for the unlawful killing of the member or retirant.

(2) If a retirement system finds that a beneficiary has forfeited his or her right to benefit payments from the retirement system under subdivision (a)(1) of this section, the retirement system shall treat the beneficiary as if he or she is deceased and shall not make benefit payments to the beneficiary.

(b)(1) If a beneficiary appeals his or her conviction for an offense described under subdivision (a)(1) of this section, benefit payments shall not be paid to the beneficiary unless the appeal results in a reversal of the conviction.

(2)(A) If the conviction of a beneficiary for an offense described under subdivision (a)(1) of this section is reversed, the retirement system may make benefit payments to the beneficiary.

(B) If the conviction of a beneficiary for an offense described under subdivision (a)(1) of this section is affirmed, the retirement system shall not make benefit payments to the beneficiary.

(c) If a member or retirant does not have a contingent beneficiary who may receive benefit payments under this section, the member or retirant's contributions to the retirement system shall be refunded to the estate of the member or retirant.

24-1-303. Suspension of benefit payments.

(a) A retirement system may suspend benefit payments to a beneficiary if the retirement system:

(1) Receives the written notice required under § 24-1-304 from a prosecuting attorney; or

(2) Has reasonable cause to believe that the beneficiary will be charged with the unlawful killing of the member or retirant.

(b) If benefit payments are suspended under this section, the suspension shall continue until:

(1) A final adjudication of the criminal or civil proceeding; or

(2)(A) The retirement system receives written confirmation from the prosecuting attorney that the beneficiary will not be charged with the unlawful killing of the member or retirant.

(B) The retirement system shall request written confirmation from the prosecuting attorney stating that the beneficiary will not be charged with the unlawful killing of the member or retirant.

24-1-304. Notice to the retirement system.

(a) A prosecuting attorney shall send written notice by certified mail, return receipt requested, to the executive director or executive secretary of the applicable retirement system when a beneficiary:

(1) Is charged with an offense described under § 24-1-302; or
(2)(A) Will not be charged with an offense described under § 24-1-302.

(B) If the prosecuting attorney receives a request under § 24-1-303 from a retirement system and a decision on whether the beneficiary will be or will not be charged with an offense described under § 24-1-302 has not been made, the prosecuting attorney shall notify the retirement system that a decision is pending.

(b) The clerk of the court in which the proceeding against the beneficiary is being conducted shall send written notice by certified mail, return receipt requested, to the executive director or executive secretary of the applicable retirement system when:

(1) A beneficiary is convicted of an offense described under § 24-1-302;

(2) A beneficiary appeals his or her conviction for an offense described under § 24-1-302; and

(3) The appellate court issues a final ruling upholding or reversing the conviction of the beneficiary for an offense described under § 24-1-302.

(c) A written notice required under this section shall include any information that the applicable retirement system determines necessary for the retirement system to identify the account of the member or retirant and implement this subchapter.

24-1-305. Notice to the beneficiary.

(a)(1) The executive director or executive secretary of the applicable retirement system or his or her designee shall notify a beneficiary when benefits shall not be paid as provided under § 24-1-302.

(2) The notice provided under subdivision (a)(1) of this section shall advise the beneficiary of:

(A) The specific facts supporting the retirement system's nonpayment of benefits; and

(B) His or her right to request a waiver of the forfeiture before the board of trustees of the retirement system.

(b)(1) A beneficiary shall request a waiver of the forfeiture by the board of trustees of the retirement system within thirty (30) days of

receiving the notice required under subsection (a) of this section.

(2) A waiver request made under subdivision (b)(1) of this section shall be submitted to the board of trustees of the retirement system in the manner specified by the applicable retirement system.

(c) Upon receiving a waiver request submitted under subdivision (b)(1) of this section, the board of trustees of the retirement system shall set and notify the beneficiary of the waiver hearing date.

/s/Tosh