

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

State of Arkansas  
94th General Assembly  
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As Engrossed: S2/14/23 S3/28/23

# A Bill

SENATE BILL 150

By: Senators M. Johnson, C. Tucker

By: Representatives G. Hodges, Rye

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING RETIREMENT BENEFITS; TO PROHIBIT COLLECTION OF BENEFITS BY MEMBERS, RETIRANTS, OR BENEFICIARIES OF RETIREMENT SYSTEMS WHO ARE CONVICTED OF CERTAIN OFFENSES; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING RETIREMENT BENEFITS; AND TO PROHIBIT COLLECTION OF BENEFITS BY MEMBERS, RETIRANTS, OR BENEFICIARIES OF RETIREMENT SYSTEMS WHO ARE CONVICTED OF CERTAIN OFFENSES.

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

*SECTION 1. Arkansas Code § 24-1-301, concerning the definitions used in the forfeiture of retirement benefits, is amended to add additional subdivisions to read as follows:*

(3)(A) "Benefit" means a monthly payment made to a retirant or the beneficiary of a member or retirant by a retirement system.

(B) "Benefit" does not include employee contributions to a retirement system;

(4) "Member" means a person who is included in the membership of a retirement system;

(5)(A) "Public office" means an office created by or under the authority of the laws of the State of Arkansas or a subdivision thereof that



is filled by a person who is elected by the voters of the State of Arkansas.

(B) "Public office" does not include an office created by or under the authority of any federal law;

(6) "Public trust crime" means a crime prohibited under Arkansas Constitution, Article 5, § 9; and

(7) "Retirant" means a member who retires with a benefit payable from funds of a retirement plan.

SECTION 2. Arkansas Code § 24-1-302 is amended to read as follows:

24-1-302. Forfeiture of benefits.

(a)(1) A member or retirant forfeits his or her right to benefit payments under a retirement system if he or she pleads guilty or nolo contendere to or is found guilty of a public trust crime while holding public office in this state.

(2) 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~~ Pleads guilty or nolo contendere to or is found guilty of the unlawful killing of a member or retirant;

(B) ~~Pleads guilty or nolo contendere to the unlawful killing of the member or retirant~~ Pleads guilty or nolo contendere to or is found guilty of a public trust crime while holding public office in this state, unless he or she is participating in a retirement system defined under § 24-1-301(2)(F);

(C) ~~Is found liable by a court of competent jurisdiction for the unlawful killing~~ wrongful death 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 him or her for the unlawful killing of the member or retirant.~~

~~(2)(3)~~ If a retirement system finds that a member, retirant, or

beneficiary has forfeited his or her right to benefit payments from the retirement system under ~~subdivision (a)(1)~~ subsection (a) of this section, the retirement system shall ~~treat the beneficiary as if he or she is deceased:~~

(A) and shall not Not make benefit payments to the member, retirant, or beneficiary; and

(B) Refund the employee contributions accumulated with interest as defined by the retirement system that were made by the member or retirant to the retirement system to the:

(i) Member or retirant; or

(ii) If deceased, the estate of the member or retirant if the member or retirant does not have a contingent beneficiary who may receive benefit payments under this section.

(C) If a retirant is already receiving benefits, then his or her employee contributions, less benefits received by the retirant through the retirement system, shall be refunded to him or her in full.

(4)(A) A retirement system may make the refund of employee contributions accumulated with interest as defined by the retirement system to a member or retirant by a:

(i) Lump-sum payment to the member or retirant; or

(ii) Series of monthly payments to the member or retirant in amounts equal to the amount the individual paid in to the retirement system with an interest rate as defined by the retirement system.

(B) A retirement system shall make the refund of employee contributions to the estate of a member or retirant by a lump-sum payment to the estate of the member or retirant.

(C) Payments made under subdivision (a)(4)(A) of this section shall cease when the member or retirant is fully reimbursed for his or her employee contributions paid in to the retirement system with an interest rate as defined by the retirement system.

(b)(1) If a member, retirant, or beneficiary appeals his or her conviction for an offense or a judgment described under ~~subdivision (a)(1)~~ subdivision (a)(1) or (a)(2) of this section, benefit payments shall not be paid to the member, retirant, or beneficiary unless the appeal results in a reversal of the conviction or judgment.

(2)(A) If the conviction of a member, retirant, or beneficiary

for an offense or a judgment described under ~~subdivision (a)(1)~~ subdivision (a)(1) or (a)(2) of this section is reversed, the retirement system may make benefit payments to the member, retirant, or beneficiary upon repayment of accumulated contributions with interest to the system.

(B) If the conviction of a member, retirant, or beneficiary for an offense or a judgment described under ~~subdivision (a)(1)~~ subdivision (a)(1) or (a)(2) of this section is affirmed, the retirement system shall not make benefit payments to the member, retirant, or 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.~~

SECTION 3. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly that this act not be construed to apply retroactively to a member or retirant of a retirement system, and shall only apply to a member or retirant who begins making employee contributions following this act's enactment.

/s/M. Johnson