

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

As Engrossed: H3/7/17  
**A Bill**

HOUSE BILL 1336

5 By: Representative Tosh  
6

7 **For An Act To Be Entitled**

8 AN ACT TO PROVIDE FOR THE FORFEITURE OF BENEFITS  
9 UNDER A PUBLIC RETIREMENT SYSTEM BY CERTAIN PERSONS;  
10 AND FOR OTHER PURPOSES.  
11

12  
13 **Subtitle**

14 TO PROVIDE FOR THE FORFEITURE OF BENEFITS  
15 UNDER A PUBLIC RETIREMENT SYSTEM BY  
16 CERTAIN PERSONS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 *SECTION 1. Arkansas Code Title 24, Chapter 1, is amended to add an*  
22 *additional subchapter to read as follows:*

23 *Subchapter 3 - Forfeiture of Public Retirement System Benefits*  
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25 *24-1-301. Definitions.*

26 *As used in this subchapter:*

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

30 *(2) "Retirement system" means:*

31 *(A) The Arkansas Teacher Retirement System, established by*  
32 *§ 24-7-201;*

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

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



1                   (D) The State Police Retirement System, established by §  
2 24-6-203;

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

5                   (F) An alternate retirement plan for:

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

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

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

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

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15                  24-1-302. Forfeiture of benefits.

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

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

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

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

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

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

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

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

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

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

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

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16 24-1-303. Suspension of benefit payments.

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

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

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

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

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

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

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

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33 24-1-304. Notice to the retirement system.

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

1 (1) Is charged with an offense described under § 24-1-302; or  
2 (2)(A) Will not be charged with an offense described under § 24-  
3 1-302.

4 (B) If the prosecuting attorney receives a request under §  
5 24-1-303 from a retirement system and a decision on whether the beneficiary  
6 will be or will not be charged with an offense described under § 24-1-302 has  
7 not been made, the prosecuting attorney shall notify the retirement system  
8 that a decision is pending.

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

13 (1) A beneficiary is convicted of an offense described under §  
14 24-1-302;

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

17 (3) The appellate court issues a final ruling upholding or  
18 reversing the conviction of the beneficiary for an offense described under §  
19 24-1-302.

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

24 24-1-305. Notice to the beneficiary.

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

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

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

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

34 (b)(1) A beneficiary shall request a waiver of the forfeiture by the  
35 board of trustees of the retirement system within thirty (30) days of  
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1 receiving the notice required under subsection (a) of this section.

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

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

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10 /s/Tosh

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13 **APPROVED: 03/30/2017**  
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