

1 State of Arkansas
2 93rd General Assembly
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4
5 By: Senator M. Johnson
6

A Bill

SENATE BILL 231

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING RETIREMENT
9 BENEFITS; TO PROHIBIT COLLECTION OF BENEFITS BY
10 MEMBERS AND RETIRANTS OF STATE-SUPPORTED RETIREMENT
11 SYSTEMS WHO ARE CONVICTED OF CERTAIN FELONY OFFENSES;
12 AND FOR OTHER PURPOSES.

Subtitle

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16 TO AMEND THE LAW CONCERNING RETIREMENT
17 BENEFITS; AND TO PROHIBIT COLLECTION OF
18 BENEFITS BY MEMBERS AND RETIRANTS OF
19 STATE-SUPPORTED RETIREMENT SYSTEMS WHO
20 ARE CONVICTED OF CERTAIN FELONY OFFENSES.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 24-1-301, concerning the definitions used
26 in the forfeiture of retirement benefits, is amended to add additional
27 subdivisions to read as follows:

28 (3)(A) "Benefit" means a monthly payment made to a retirant or
29 the beneficiary of a member or retirant by a state-supported retirement
30 system in this state.

31 (B) "Benefit" does not include employee contributions to a
32 state-supported retirement system in this state;

33 (4) "Member" means a person who is included in the membership of
34 a public employee retirement plan in this state; and

35 (5) "Retirant" means a member who retires with a benefit payable
36 from funds of a public employee retirement plan in this state



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

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

(A) Is convicted by a court of competent jurisdiction of ~~the~~:

(i) The unlawful killing of the member or retirant;
or

(ii) A felony offense related to the duties of his or her office while serving as a public employee;

(B) Pleads guilty or nolo contendere to ~~the~~:

(i) The unlawful killing of the member or retirant;
or

(ii) A felony offense related to the duties of his or her office while serving as a public employee;

(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 him or her for the unlawful killing of the member or retirant.

(2) A member or retirant forfeits his or her right to benefit payments under a state-supported retirement system if he or she:

(A) Is convicted by a court of competent jurisdiction of a felony offense related to the duties of his or her office while serving as a public employee; or

(B) Pleads guilty or nolo contendere to a felony offense related to the duties of his or her office while serving as a public employee.

(3) If a state-supported retirement system finds that a member, retirant, or beneficiary has forfeited his or her right to benefit payments

1 from the state-supported retirement system under ~~subdivision (a)(1) of this~~
 2 ~~section~~ subdivision (a)(1) or (2) of this section, the state-supported
 3 retirement system shall:

4 (A) ~~to treat~~ Treat the member, retirant, or beneficiary as if
 5 he or she is deceased;

6 (B) ~~and shall not~~ Not make benefit payments to the member,
 7 retirant, or beneficiary; and

8 (C) Refund any employee contributions, excluding interest,
 9 made by the member or retirant to the state-supported retirement system to
 10 the:

11 (i) Member or retirant; or

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

15 (4)(A) A state-supported retirement system may make the refund
 16 of employee contributions to a member or retirant by a:

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

18 (ii) Series of monthly payments to the member or
 19 retirant in amounts equal to the amount the state-supported retirement system
 20 would have paid to the member or retirant had he or she not forfeited his or
 21 her benefits.

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

25 (C) Payments made under subdivision (a)(4)(A) of this
 26 section shall cease when the member or retirant is fully reimbursed for his
 27 or her employee contributions, excluding interest, to the state-supported
 28 retirement system.

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

34 (2)(A) If the conviction of a member, retirant, or beneficiary
 35 for an offense described under ~~subdivision (a)(1) of this section~~ subdivision
 36 (a)(1) or (2) of this section is reversed, the retirement system may make

1 benefit payments to the member, retirant, or beneficiary.

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

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

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 12 SECTION 3. Arkansas Code §§ 24-1-303 – 24-1-305 are amended to read as
 13 follows:

14 24-1-303. Suspension of benefit payments.

15 (a) A state-supported retirement system may suspend benefit payments
 16 to a retirant or beneficiary if the state-supported retirement system:

17 (1) Receives the written notice required under ~~§ 24-1-304~~ § 24-
 18 1-304(a)(1) from a prosecuting attorney; or

19 (2) Has reasonable cause to believe that the retirant or
 20 beneficiary will be charged with ~~the unlawful killing of the member or~~
 21 ~~retirant~~ any offense described under § 24-1-302.

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

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

25 (2)(A) The state-supported retirement system receives written
 26 confirmation from the prosecuting attorney that the retirant or beneficiary
 27 will not be charged with the ~~unlawful killing of the member or retirant~~
 28 offense described under § 24-1-302.

29 (B) The state-supported retirement system shall request
 30 written confirmation from the prosecuting attorney stating that the retirant
 31 or beneficiary will not be charged with the ~~unlawful killing of the member or~~
 32 ~~retirant~~ offense described under § 24-1-302.

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 34 24-1-304. Notice to retirement system.

35 (a) A prosecuting attorney shall send written notice by certified
 36 mail, return receipt requested, to the executive director or executive

1 secretary of the applicable state-supported retirement system when a member,
 2 retirant, or beneficiary:

3 (1) Is charged with an offense described under § 24-1-302; or

4 (2)(A) Will not be charged with an offense described under § 24-
 5 1-302.

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

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

16 (1) A member, retirant, or beneficiary is convicted of an
 17 offense described under § 24-1-302;

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

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

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

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 28 24-1-305. Notice to member, retirant, or beneficiary.

29 (a)(1) The executive director or executive secretary of the applicable
 30 state-supported retirement system or his or her designee shall notify a
 31 member, retirant, or beneficiary when benefits shall not be paid as provided
 32 under § 24-1-302.

33 (2) The notice provided under subdivision (a)(1) of this section
 34 shall advise the member, retirant, or beneficiary of:

35 (A) The specific facts supporting the state-supported
 36 retirement system's nonpayment of benefits; and

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

3 (b)(1) A member, retirant, or beneficiary shall request a waiver of
4 the forfeiture by the board of trustees of the state-supported retirement
5 system within thirty (30) days of receiving the notice required under
6 subsection (a) of this section.

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

11 (c) Upon receiving a waiver request submitted under subdivision (b)(1)
12 of this section, the board of trustees of the state-supported retirement
13 system shall set and notify the member, retirant, or beneficiary of the
14 waiver hearing date.

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