

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S3/9/21

# A Bill

SENATE BILL 231

5 By: Senator M. Johnson  
6 *By: Representative Richardson*  
7

## For An Act To Be Entitled

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

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

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

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

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

36 (5) "Retirant" means a member who retires with a benefit payable



1 from funds of a public employee retirement plan in this state

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

4 24-1-302. Forfeiture of benefits.

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

7 (A) Is convicted by a court of competent jurisdiction of  
8 ~~the~~;

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

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

13 (B) Pleads guilty or nolo contendere to ~~the~~;

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

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

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

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

24 (E) Is found by a court of competent jurisdiction to lack  
25 the capacity to understand or effectively assist in defending a criminal  
26 proceeding against him or her for the unlawful killing of the member or  
27 retirant.

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

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

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

36 (3) If a state-supported retirement system finds that a member,

1 retirant, or beneficiary has forfeited his or her right to benefit payments  
2 from the state-supported retirement system under ~~subdivision (a)(1) of this~~  
3 ~~section~~ subdivision (a)(1) or (2) of this section, the state-supported  
4 retirement system shall:

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

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

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

12 (i) Member or retirant; or

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

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

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

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

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

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

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

35 (2)(A) If the conviction of a member, retirant, or beneficiary  
36 for an offense described under ~~subdivision (a)(1) of this section~~ subdivision

1 (a)(1) or (2) of this section is reversed, the retirement system may make  
2 benefit payments to the member, retirant, or beneficiary.

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

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

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

15 24-1-303. Suspension of benefit payments.

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

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

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

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

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

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35 24-1-304. Notice to retirement system.

36 (a) A prosecuting attorney shall send written notice by certified

1 mail, return receipt requested, to the executive director or executive  
2 secretary of the applicable state-supported retirement system when a member,  
3 retirant, or beneficiary:

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

5 (2)(A) Will not be charged with an offense described under § 24-  
6 1-302.

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

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

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

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

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

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

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29 24-1-305. Notice to member, retirant, or beneficiary.

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

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

36 (A) The specific facts supporting the state-supported

1 retirement system's nonpayment of benefits; and

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

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

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

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

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18 /s/M. Johnson

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