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2 93rd General Assembly
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4

As Engrossed: S3/9/21 S3/23/21

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 RETIREMENT SYSTEMS WHO ARE
12 CONVICTED OF CERTAIN OFFENSES; AND FOR OTHER
13 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 RETIREMENT SYSTEMS WHO ARE CONVICTED OF
20 CERTAIN OFFENSES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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 retirement system in this state.

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

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

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



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

3
4 SECTION 2. Arkansas Code § 24-1-302 is amended to read as follows:
5 24-1-302. Forfeiture of benefits.

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

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

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

11 or

12 (ii) Committing a public trust crime while
13 performing his or her duties as an elected official;

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

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

16 or

17 (ii) Committing a public trust crime while
18 performing his or her duties as an elected official;

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

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

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

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

31 (A) Is convicted by a court of competent jurisdiction of
32 committing a public trust crime while performing his or her duties as an
33 elected official; or

34 (B) Pleads guilty or nolo contendere to committing a
35 public trust crime while performing his or her duties as an elected official.

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

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

4 (A) ~~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 retirement system to the:

10 (i) Member or retirant; or

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

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

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

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

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

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

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

31 (2)(A) If the conviction of a member, retirant, or beneficiary
32 for an offense described under ~~subdivision (a)(1) of this section~~ subdivision
33 (a)(1) or (a)(2) of this section is reversed, the retirement system may make
34 benefit payments to the member, retirant, or beneficiary.

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

1 subdivision (a)(1) or (a)(2) of this section is affirmed, the retirement
2 system shall not make benefit payments to the member, retirant, or
3 beneficiary.

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

8
9 SECTION 3. Arkansas Code §§ 24-1-303 – 24-1-305 are amended to read as
10 follows:

11 24-1-303. Suspension of benefit payments.

12 (a) A retirement system may suspend benefit payments to a retirant or
13 beneficiary if the retirement system:

14 (1) Receives the written notice required under ~~§ 24-1-304~~ § 24-
15 1-304(a)(1) from a prosecuting attorney; or

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

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

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

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

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

30
31 24-1-304. Notice to retirement system.

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

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

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

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

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

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

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

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

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

23
24 24-1-305. Notice to member, retirant, or beneficiary.

25 (a)(1) The executive director or executive secretary of the applicable
26 retirement system or his or her designee shall notify a member, retirant, or
27 beneficiary when 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 member, retirant, or 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 member, retirant, or beneficiary shall request a waiver of
35 the forfeiture by the board of trustees of the retirement system within
36 thirty (30) days of receiving the notice required under subsection (a) of

1 *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 member, retirant, or beneficiary of the waiver hearing date.*

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/s/M. Johnson

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