

1 State of Arkansas As Engrossed: S2/14/23 S3/28/23

2 94th General Assembly

# A Bill

3 Regular Session, 2023

SENATE BILL 150

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5 By: Senators M. Johnson, C. Tucker

6 By: Representatives G. Hodges, Rye

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## For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING RETIREMENT

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BENEFITS; TO PROHIBIT COLLECTION OF BENEFITS BY

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MEMBERS, RETIRANTS, OR BENEFICIARIES OF RETIREMENT

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SYSTEMS WHO ARE CONVICTED OF CERTAIN OFFENSES; AND

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FOR OTHER PURPOSES.

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## Subtitle

17

TO AMEND THE LAW CONCERNING RETIREMENT

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BENEFITS; AND TO PROHIBIT COLLECTION OF

19

BENEFITS BY MEMBERS, RETIRANTS, OR

20

BENEFICIARIES OF RETIREMENT SYSTEMS WHO

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ARE CONVICTED OF CERTAIN OFFENSES.

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

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SECTION 1. Arkansas Code § 24-1-301, concerning the definitions used

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in the forfeiture of retirement benefits, is amended to add additional

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subdivisions to read as follows:

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(3)(A) "Benefit" means a monthly payment made to a retirant or

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the beneficiary of a member or retirant by a retirement system.

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

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retirement system;

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

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a retirement system;

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(5)(A) "Public office" means an office created by or under the

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authority of the laws of the State of Arkansas or a subdivision thereof that



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

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

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

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

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9 SECTION 2. Arkansas Code § 24-1-302 is amended to read as follows:  
10 24-1-302. Forfeiture of benefits.

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

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

17 (A) ~~Is convicted by a court of competent jurisdiction of~~  
18 ~~the unlawful killing of the member or retirant~~ Pleads guilty or nolo  
19 contendere to or is found guilty of the unlawful killing of a member or  
20 retirant;

21 (B) ~~Pleads guilty or nolo contendere to the unlawful~~  
22 ~~killing of the member or retirant~~ Pleads guilty or nolo contendere to or is  
23 found guilty of a public trust crime while holding public office in this  
24 state, unless he or she is participating in a retirement system defined under  
25 § 24-1-301(2)(F);

26 (C) ~~Is found liable by a court of competent jurisdiction~~  
27 ~~for the unlawful killing~~ wrongful death of the member or retirant by a  
28 preponderance of the evidence in a civil action~~†.~~

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

32 ~~(E) Is found by a court of competent jurisdiction to lack~~  
33 ~~the capacity to understand or effectively assist in defending a criminal~~  
34 ~~proceeding against him or her for the unlawful killing of the member or~~  
35 ~~retirant.~~

36 ~~(2)(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)~~ subsection (a) of this section,  
 3 the retirement system shall ~~treat the beneficiary as if he or she is~~  
 4 ~~deceased~~;

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

7 (B) Refund the employee contributions accumulated with  
 8 interest as defined by the retirement system that were made by the member or  
 9 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 (C) If a retirant is already receiving benefits, then his  
 15 or her employee contributions, less benefits received by the retirant through  
 16 the retirement system, shall be refunded to him or her in full.

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

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

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

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

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

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

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

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

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

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

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15 SECTION 3. DO NOT CODIFY. Legislative intent.

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

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21 /s/M. Johnson  
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