

HOUSE BILL No. 5990

October 19, 2016, Introduced by Reps. Runestad, Darany, Johnson, Graves, Kelly, Chatfield, Hooker, Howell, Glenn, Barrett, Somerville, Tedder, Cole, Vaupel and Robinson and referred to the Committee on Criminal Justice.

A bill to amend 1994 PA 350, entitled
"Public employee retirement benefits forfeiture act,"
by amending sections 2, 3, and 4 (MCL 38.2702, 38.2703, and
38.2704), sections 2 and 4 as amended by 1996 PA 467.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Felony arising out of his or her service as a public
3 employee" means 1 or more of the following:

4 (i) A felony resulting from the misuse of public funds.

5 (ii) A felony resulting from the receipt of a bribe or other
6 financial benefit in that ~~person's~~**INDIVIDUAL'S** capacity as a
7 public employee.

8 (b) "Member" means a member, vested former member, ~~or~~ deferred
9 member, **OR PARTICIPANT** of a retirement system.

10 (c) "Retirant" means ~~a person~~**AN INDIVIDUAL** who has retired

1 with a retirement benefit payable from a retirement system.

2 (d) "Retirement benefit" means an annuity, a retirement
3 allowance, a pension, **A BENEFIT FROM EMPLOYER CONTRIBUTIONS TO A**
4 **DEFINED CONTRIBUTION PLAN**, an optional benefit, a postretirement
5 benefit, and any other right accrued or accruing to a member under
6 a retirement system. Retirement benefit does not include health
7 benefits provided to a retirant or his or her beneficiaries by a
8 retirement system.

9 (e) "Retirement system" means a public employee retirement
10 system established by this state or a political subdivision of this
11 state.

12 Sec. 3. A member or retirant who is convicted of or who enters
13 a nolo contendere plea accepted by a court for a felony arising out
14 of his or her service as a public employee is considered to have
15 breached the public trust and may have his or her rights to an
16 otherwise vested retirement benefit and all accumulated **EMPLOYER**
17 **contributions, INCLUDING EARNINGS ON THE EMPLOYER CONTRIBUTIONS,**
18 standing to that person's credit in the retirement system forfeited
19 as provided in this act. This act applies only to the retirement
20 system of which the ~~person~~**INDIVIDUAL** was a member or retirant at
21 the time the felony was committed and only to the retirement system
22 established by the entity affected by the felony.

23 Sec. 4. (1) If a member or retirant is convicted of or enters
24 a nolo contendere plea accepted by the court for a felony arising
25 out of his or her service as a public employee, the court ~~may~~**SHALL**
26 order forfeiture as provided in this section. If a court orders
27 forfeiture under this section, the order ~~shall~~**MUST** contain all of

1 the following, as applicable:

2 (a) The portion of the member's or retirant's retirement
3 benefit under a retirement system established by that ~~person's~~
4 **INDIVIDUAL'S** employer at the time the act or acts that resulted in
5 the felony were committed that accrued to ~~that~~**THE** member or
6 retirant on or after the date the first act that resulted in the
7 felony was committed is forfeited.

8 **(B) THE EMPLOYER CONTRIBUTIONS TO A MEMBER'S OR RETIRANT'S**
9 **INDIVIDUAL ACCOUNT UNDER A DEFINED CONTRIBUTION PLAN ESTABLISHED BY**
10 **THE RETIREMENT SYSTEM, INCLUDING EARNINGS ON THE EMPLOYER**
11 **CONTRIBUTIONS, ON OR AFTER THE DATE THE FIRST ACT THAT RESULTED IN**
12 **THE FELONY WAS COMMITTED ARE FORFEITED.**

13 **(C)** ~~(b)~~The member's or retirant's accumulated contributions
14 standing to that ~~person's~~**INDIVIDUAL'S** credit in the individual
15 account established for that purpose in the retirement system ~~shall~~
16 **MUST** be refunded to the member or retirant.

17 **(D)** ~~(c)~~~~The~~**EXCEPT FOR A RETIREMENT BENEFIT THAT IS A BENEFIT**
18 **FROM EMPLOYER CONTRIBUTIONS TO A DEFINED CONTRIBUTION PLAN**
19 **FORFEITED UNDER SUBDIVISION (B), THE** retirement system shall pay to
20 an individual, if any, who would otherwise be a beneficiary of the
21 member or retirant whose retirement benefit is being forfeited
22 under this act an actuarially equivalent monthly retirement
23 allowance at the age ~~that~~**THE** member or retirant would have become
24 eligible for unreduced retirement benefits under that retirement
25 system.

26 **(E)** ~~(d)~~The retirement system shall provide hospitalization
27 and medical coverage insurance to the member or retirant whose

1 retirement benefit is being forfeited under this act and to his or
2 her beneficiaries in the same manner and under the same
3 restrictions as is provided to other retirants and beneficiaries of
4 that retirement system.

5 (2) If a court enters an order described in subsection (1),
6 the clerk of the court shall deliver the order to the retirement
7 system.