

HOUSE BILL NO. 5338

January 16, 2020, Introduced by Rep. Hoitenga and referred to the Committee on Judiciary.

A bill to amend 1994 PA 350, entitled
"Public employee retirement benefits forfeiture act,"
by amending sections 2 and 3 (MCL 38.2702 and 38.2703), as amended
by 2017 PA 43.

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:



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

2 (ii) A felony resulting from the receipt of a bribe or other
3 financial benefit in that individual's capacity as a public
4 employee.

5 (iii) A felony violation of chapter LXXVI of the Michigan penal
6 code, 1931 PA 328, MCL 750.520a to 750.520o, if the individual is a
7 public school employee and the victim is either of the following:

8 (A) A pupil of a reporting unit.

9 (B) Less than 18 years of age.

10 (b) "Member" means a member, vested former member, deferred
11 member, or participant of a retirement system.

12 (c) "Public school employee" means that term as defined in
13 section 6 of the public school employees retirement act of 1979,
14 1980 PA 300, MCL 38.1306.

15 (d) "Reporting unit" means that term as defined in section 7
16 of the public school employees retirement act of 1979, 1980 PA 300,
17 MCL 38.1307.

18 (e) ~~(e)~~—"Retirant" means an individual who has retired with a
19 retirement benefit payable from a retirement system.

20 (f) ~~(d)~~—"Retirement benefit" means an annuity, a retirement
21 allowance, a pension, a benefit from employer contributions to a
22 defined contribution plan, an optional benefit, a postretirement
23 benefit, and any other right accrued or accruing to a member under
24 a retirement system. Retirement benefit does not include health
25 benefits provided to a retirant or his or her beneficiaries by a
26 retirement system.

27 (g) ~~(e)~~—"Retirement system" means a public employee retirement
28 system established by this state or a political subdivision of this
29 state.



1 (h) "Victim" means that term as defined in section 520a of the
2 Michigan penal code, 1931 PA 328, MCL 750.520a.

3 Sec. 3. (1) A member or retirant who, before ~~the effective~~
4 ~~date of the amendatory act that added section 4a,~~ **September 5,**
5 **2017,** is convicted of or enters a nolo contendere plea accepted by
6 a court for a felony arising out of his or her service as a public
7 employee is considered to have breached the public trust and may
8 have his or her rights to an otherwise vested retirement benefit
9 and all accumulated employer contributions, including earnings on
10 the employer contributions, standing to that individual's credit in
11 the retirement system forfeited as provided in this act.

12 (2) A member or retirant who, ~~on or after the effective date~~
13 ~~of the amendatory act that added section 4a,~~ **September 4, 2017,** is
14 convicted of or enters a nolo contendere plea accepted by a court
15 for a felony arising out of his or her service as a public employee
16 is considered to have breached the public trust and must have his
17 or her rights to an otherwise vested retirement benefit and all
18 accumulated employer contributions, including earnings on the
19 employer contributions, standing to that individual's credit in the
20 retirement system forfeited as provided in this act.

21 (3) This act applies only to the retirement system of which
22 the individual was a member or retirant at the time the felony was
23 committed and only to the retirement system established by the
24 entity affected by the felony. **For purposes of this section, for an**
25 **individual described in section 2(a)(iii), the Michigan public school**
26 **employees' retirement system created under section 21 of the public**
27 **school employees retirement act of 1979, 1980 PA 300, MCL 38.1321,**
28 **is affected by the felony regardless of whether the victim was a**
29 **pupil of the reporting unit where the individual was employed.**

