

SB0627/312211/1

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL 627
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, strike “EMERGENCY BILL”; and strike lines 2 and 3 in their entirety and substitute “**Police Reform and Accountability – Forfeiture of Retirement Benefits**”.

On pages 1 and 2, strike beginning with “repealing” in line 4 down through “officers” in line 12 on page 2 and substitute “authorizing a certain assignment of benefits; establishing that law enforcement officers may be subject to forfeiture of benefits from the State Retirement and Pension System or a local system; prohibiting the payment of certain benefits to a law enforcement officer who is found guilty of, pleads guilty to, or enters a plea of nolo contendere to a qualifying crime; prohibiting the forfeiture of benefits if the forfeiture negatively affects or invalidates the tax qualified status of any of the several systems within the State Retirement and Pension System or a local system; requiring that certain forfeitures of benefits be reversed under certain circumstances; requiring the forfeiture of benefits, in whole or in part, for a law enforcement officer who is convicted of a qualifying crime; requiring the Attorney General or State’s Attorney to file a certain complaint in circuit court; requiring notice of the complaint to be sent to certain persons; requiring the State Retirement Agency and local systems to provide certain information to the Attorney General or State’s Attorney under certain circumstances; establishing certain findings that shall be made when entering an order requiring the forfeiture of benefits; requiring the forfeiture order to indicate the amount of benefits forfeit; requiring a court to consider certain factors when determining the amount of benefits subject to forfeiture; clarifying that only certain service is subject to forfeiture; authorizing a court to enter a domestic relations order that provides that some or all of the forfeited benefits be paid to certain individuals subject to certain limitations; prohibiting a forfeiture order from impairing or altering certain domestic relations orders; clarifying that a law enforcement officer may receive”

(Over)

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benefits as a beneficiary; clarifying that a law enforcement officer’s interest in benefits of a former spouse is not subject to forfeiture; authorizing the Board of Trustees for the State Retirement and Pension System to recover certain payments made to a law enforcement officer subject to a forfeiture order; authorizing a local system to recover certain payments made to a public employee subject to a forfeiture order; limiting the amount that may be recovered; authorizing certain law enforcement officers to submit an application for retirement; prohibiting the State Retirement Agency or a local system from processing a certain application for retirement until certain conditions are met; requiring a forfeiture order to be rescinded under certain circumstances; requiring certain payments to be made when a conviction is overturned; providing that a law enforcement officer subject to a forfeiture order is entitled to a return of employee contributions on request; authorizing certain employee contributions to be reduced under certain circumstances; requiring the Board of Trustees to adopt certain regulations; requiring a local system to adopt certain policies and procedures; and generally relating to forfeiture of retirement benefits of certain law enforcement officers”.

On page 2, strike in their entirety lines 13 through 33, inclusive, and substitute:

“BY repealing and reenacting, with amendments,
Article - State Personnel and Pensions
Section 21-502(a)(3)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY adding to
Article - State Personnel and Pensions
Section 21–801 through 21–809 to be under the new subtitle “Subtitle 8.
Forfeiture of Benefits – Law Enforcement Officers”; and 40–201 through
40–209 to be under the new subtitle “Subtitle 2. Forfeiture of Benefits –
Law Enforcement Officers”
Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)”;

in line 34, strike “2. AND BE IT FURTHER ENACTED” and substitute “1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND”.

AMENDMENT NO. 2

On pages 2 through 24, strike in their entirety the lines beginning with line 36 on page 2 through line 10 on page 24, inclusive, and substitute:

“Article – State Personnel and Pensions

21–502.

(a) (3) A court of competent jurisdiction may expressly order that a benefit under this Division II be assigned to a spouse, former spouse, child, or other dependent when an order of benefit forfeiture is issued in accordance with § 21–704 OR § 21–804 of this title.

SUBTITLE 8. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.

21–801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “DOMESTIC RELATIONS ORDER” MEANS AN ORDER ISSUED IN ACCORDANCE WITH § 21–502(A)(2) OF THIS TITLE, § 414(P) OF THE INTERNAL REVENUE CODE, AND REGULATIONS ADOPTED BY THE BOARD OF TRUSTEES THAT ASSIGNS A BENEFIT TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT OF A LAW ENFORCEMENT OFFICER IN CONNECTION WITH A DECREE OR ORDER OF ALIMONY, CHILD SUPPORT, OR DIVORCE.

(Over)

(C) “FINAL ADJUDICATION” MEANS ADJUDICATION BY A TRIAL COURT RESULTING IN FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A QUALIFYING CRIME.

(D) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO:

(1) IS LISTED IN § 21–802 OF THIS SUBTITLE; AND

(2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

(E) “QUALIFYING CRIME” MEANS A CRIMINAL OFFENSE THAT IS COMMITTED IN THE COURSE OF THE PERFORMANCE OF THE LAW ENFORCEMENT OFFICER’S DUTIES AND RESPONSIBILITIES THAT IS:

(1) A FELONY;

(2) PERJURY; OR

(3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

(F) “RETIREMENT ALLOWANCE”:

(1) HAS THE MEANING STATED IN § 20–101 OF THIS ARTICLE; AND

(2) INCLUDES A VESTED ALLOWANCE.

(G) “VESTED ALLOWANCE” HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE.

21-802.

(A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:

(1) IS A MEMBER, FORMER MEMBER, OR RETIREE OF THE:

(I) STATE POLICE RETIREMENT SYSTEM;

(II) LAW ENFORCEMENT OFFICERS’ PENSION SYSTEM; OR

(III) EMPLOYEES’ PENSION SYSTEM OR EMPLOYEES’ RETIREMENT SYSTEM; AND

(2) HAS EARNED CREDITABLE SERVICE WHILE EMPLOYED AS A LAW ENFORCEMENT OFFICER.

(B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE JULY 1, 2022.

21-803.

(A) BENEFITS UNDER THIS DIVISION II OF THIS ARTICLE PAYABLE TO A LAW ENFORCEMENT OFFICER ARE SUBJECT TO FORFEITURE IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SUBTITLE IF THE LAW ENFORCEMENT OFFICER IS FOUND GUILTY OF, PLEADS GUILTY TO, OR ENTERS A PLEA OF NOLO CONTENDERE TO A QUALIFYING CRIME.

(Over)

(B) (1) BENEFITS UNDER THIS DIVISION II MAY NOT BE FORFEITED OR REDUCED IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE FORFEITURE OR REDUCTION WILL NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF ANY OF THE SEVERAL SYSTEMS.

(2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF ANY OF THE SEVERAL SYSTEMS, ANY FORFEITURE OF BENEFITS THAT TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE'S DETERMINATION SHALL BE REVERSED IN ACCORDANCE WITH § 21-807 OF THIS SUBTITLE TO THE EXTENT NECESSARY TO COMPLY WITH THE DETERMINATION.

21-804.

(A) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN CONVICTION OF A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER'S RETIREMENT ALLOWANCE SHALL BE FORFEITED IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SECTION.

(B) (1) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY SHALL FILE A COMPLAINT IN CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER'S BENEFITS IN WHOLE OR IN PART.

(2) NOTICE OF THE COMPLAINT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SERVED ON:

(I) THE LAW ENFORCEMENT OFFICER;

(II) ANY KNOWN SPOUSE OF THE LAW ENFORCEMENT OFFICER;

(III) ANY KNOWN DEPENDENTS OF THE LAW ENFORCEMENT OFFICER;

(IV) THE LAW ENFORCEMENT OFFICER'S DESIGNATED BENEFICIARIES;

(V) ANY FORMER SPOUSE WHO HAS BEEN ASSIGNED BENEFITS UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

(VI) THE STATE RETIREMENT AGENCY.

(3) NOTWITHSTANDING § 4-312 OF THE GENERAL PROVISIONS ARTICLE, ON WRITTEN REQUEST, THE STATE RETIREMENT AGENCY SHALL PROVIDE THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WITH AVAILABLE INFORMATION FROM THE RETIREMENT RECORDS OF THE LAW ENFORCEMENT OFFICER TO ASSIST THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY IN PROVIDING THE NOTICE REQUIRED UNDER THIS SUBSECTION.

(C) THE COURT SHALL ENTER AN ORDER REQUIRING THE FORFEITURE, IN WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A QUALIFYING CRIME;

(2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS'

(Over)

PENSION SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES' RETIREMENT SYSTEM; AND

(3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT OFFICER WAS AN ACTIVE MEMBER OF THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES' RETIREMENT SYSTEM.

(D) ONLY SERVICE CREDIT IN THE STATE SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER IS A MEMBER WHEN THE QUALIFYING CRIME IS COMMITTED IS ELIGIBLE FOR FORFEITURE UNDER THIS SECTION.

(E) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.

(2) WHEN DETERMINING THE AMOUNT OF BENEFITS TO BE FORFEITED, THE COURT SHALL CONSIDER:

(I) THE SEVERITY OF THE CRIME;

(II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE CRIME;

(III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW ENFORCEMENT OFFICER;

(IV) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW ENFORCEMENT OFFICER;

(V) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW ENFORCEMENT OFFICER'S SPOUSE, CHILDREN, OR OTHER DEPENDENTS;

(VI) ANY INTEREST IN BENEFITS OF A FORMER SPOUSE ESTABLISHED UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

(VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

(F) (1) IF THE COURT ENTERS AN ORDER REQUIRING THE FORFEITURE OF BENEFITS, THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE PAID TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT FOR PURPOSES OF CHILD SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.

(2) WHEN DETERMINING WHETHER TO ENTER A DOMESTIC RELATIONS ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL CONSIDER WHETHER THE LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILDREN, OR DEPENDENTS WERE CULPABLE OR COMPLICIT IN THE COMMISSION OF THE QUALIFYING CRIME.

(3) THE COURT MAY NOT ORDER BENEFITS TO BE PAID TO A LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT IN A MANNER THAT IS INCONSISTENT WITH THE PAYMENT OF BENEFITS IN THE STATE SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER WAS A MEMBER.

(G) (1) AN ORDER REQUIRING A FORFEITURE OF BENEFITS ISSUED UNDER THIS SECTION MAY NOT IMPAIR OR ALTER AN EXISTING DOMESTIC

(Over)

RELATIONS ORDER PROVIDING BENEFITS TO A FORMER SPOUSE OF A LAW ENFORCEMENT OFFICER.

(2) A LAW ENFORCEMENT OFFICER'S INTEREST IN A BENEFIT OF A FORMER SPOUSE ESTABLISHED BY A DOMESTIC RELATIONS ORDER MAY NOT BE SUBJECT TO A FORFEITURE OR REDUCTION UNDER THIS SUBTITLE.

(H) BENEFITS AVAILABLE TO A LAW ENFORCEMENT OFFICER AS A BENEFICIARY MAY NOT BE SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE.

21-805.

(A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE A FORFEITURE ORDER IS ISSUED UNDER § 21-804 OF THIS SUBTITLE, THE BOARD OF TRUSTEES MAY RECOVER FROM THE LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS PAID TO THE LAW ENFORCEMENT OFFICER BEFORE THE ORDER.

(B) THE RECOVERY UNDER SUBSECTION (A) OF THIS SECTION IS LIMITED TO AN AMOUNT EQUAL TO THE BENEFITS THAT WOULD HAVE BEEN FORFEITED HAD THE FORFEITURE ORDER BEEN ISSUED BEFORE THE LAW ENFORCEMENT OFFICER BEGAN RECEIVING ANY BENEFITS AS A RETIREE.

21-806.

(A) THIS SECTION APPLIES TO A LAW ENFORCEMENT OFFICER WHO IS NOT A RETIREE.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LAW ENFORCEMENT OFFICER MAY SUBMIT AN APPLICATION FOR RETIREMENT.

(C) IF A LAW ENFORCEMENT OFFICER IS ELIGIBLE TO APPLY FOR A RETIREMENT ALLOWANCE, A LAW ENFORCEMENT OFFICER'S APPLICATION FOR RETIREMENT BENEFITS:

(1) SHALL BE CONSIDERED SUBMITTED ON THE FIRST DAY OF THE MONTH AFTER IT IS PROPERLY COMPLETED AND SUBMITTED TO THE STATE RETIREMENT AGENCY; AND

(2) MAY NOT BE PROCESSED BY THE STATE RETIREMENT AGENCY UNLESS AND UNTIL THE FINAL ADJUDICATION OF THE CHARGE THAT DOES NOT RESULT IN CONVICTION.

21-807.

(A) (1) ON RECEIPT OF AN ORDER THAT REVERSES OR OVERTURNS A CONVICTION OF A LAW ENFORCEMENT OFFICER, THE COURT THAT ISSUED A FORFEITURE ORDER UNDER § 21-804 OF THIS SUBTITLE SHALL RESCIND THE FORFEITURE ORDER AND ORDER THE BOARD OF TRUSTEES TO PAY ANY BENEFITS THAT ARE PAYABLE UNDER THIS DIVISION II OF THIS ARTICLE TO THE LAW ENFORCEMENT OFFICER.

(2) WHEN A COURT RESCINDS A FORFEITURE ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL ALSO RESCIND ANY DOMESTIC RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 21-804(F) OF THIS SUBTITLE.

(B) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS A RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED:

(Over)

(1) THE LAW ENFORCEMENT OFFICER'S BENEFITS SHALL BE RESTORED BACK TO THE DATE THE BENEFIT PAYMENTS CEASED;

(2) THE LAW ENFORCEMENT OFFICER'S ALLOWANCE SHALL:

(I) BE PAID BEGINNING THE MONTH AFTER THE STATE RETIREMENT AGENCY IS NOTIFIED THAT THE CONVICTION IS OVERTURNED; AND

(II) INCLUDE ANY COST-OF-LIVING ADJUSTMENTS THAT WOULD HAVE BEEN MADE IN THE TIME BETWEEN THE CONVICTION AND THE TIME BENEFIT PAYMENTS ARE RESTORED; AND

(3) BENEFIT PAYMENTS THAT WOULD HAVE BEEN MADE DURING THE TIME FROM THE DATE OF CONVICTION TO THE DATE THE CONVICTION IS OVERTURNED SHALL BE MADE TO THE LAW ENFORCEMENT OFFICER, LESS ANY PAYMENTS MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS ORDER DIRECTING PAYMENT OF BENEFITS TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT.

(C) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS NOT A RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED, THE LAW ENFORCEMENT OFFICER MAY RECEIVE BENEFITS IN ACCORDANCE WITH THIS DIVISION II OF THIS ARTICLE.

21-808.

(A) A LAW ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE ORDER ISSUED UNDER § 21-804 OF THIS SUBTITLE IS ENTITLED TO A RETURN OF THE INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON REQUEST UNDER § 29-501 OF THIS ARTICLE.

(B) THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY BENEFIT PAYMENTS RECEIVED BY THE LAW ENFORCEMENT OFFICER THAT WOULD HAVE BEEN SUBJECT TO FORFEITURE AND HAVE NOT BEEN RECOVERED BY THE BOARD OF TRUSTEES UNDER § 21-805 OF THIS SUBTITLE.

21-809.

THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

SUBTITLE 2. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.

40-201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ACCUMULATED CONTRIBUTIONS”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20-101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

(C) “DOMESTIC RELATIONS ORDER” MEANS AN ORDER ISSUED IN ACCORDANCE WITH § 414(P) OF THE INTERNAL REVENUE CODE, AND PROVISIONS ADOPTED BY THE LOCAL SYSTEM THAT ASSIGNS A BENEFIT TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT OF A LAW ENFORCEMENT OFFICER IN CONNECTION WITH A DECREE OR ORDER OF ALIMONY, CHILD SUPPORT, OR DIVORCE.

(Over)

(D) “FINAL ADJUDICATION” MEANS ADJUDICATION BY A TRIAL COURT RESULTING IN FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A QUALIFYING CRIME.

(E) “FORMER MEMBER”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

(F) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO:

(1) IS LISTED IN § 40–202 OF THIS SUBTITLE; AND

(2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

(G) “LOCAL SYSTEM” MEANS A RETIREMENT OR PENSION SYSTEM OPERATED FOR THE BENEFIT OF EMPLOYEES OF A POLITICAL SUBDIVISION OF THE STATE.

(H) “MEMBER”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

(I) “QUALIFYING CRIME” MEANS A CRIMINAL OFFENSE THAT IS COMMITTED IN THE COURSE OF THE PERFORMANCE OF THE LAW ENFORCEMENT OFFICER’S DUTIES AND RESPONSIBILITIES THAT IS:

(1) A FELONY;

(2) PERJURY; OR

(3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

(J) “RETIREE”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

(K) “RETIREMENT ALLOWANCE”:

(1) WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM; AND

(2) INCLUDES A VESTED ALLOWANCE.

(L) “VESTED ALLOWANCE”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

40–202.

(A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:

(1) IS A MEMBER, FORMER MEMBER, OR RETIREE OF A LOCAL SYSTEM; AND

(Over)

(2) HAS EARNED CREDITABLE SERVICE WHILE EMPLOYED AS A LAW ENFORCEMENT OFFICER.

(B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE JULY 1, 2022.

40-203.

(A) BENEFITS PAYABLE TO A LAW ENFORCEMENT OFFICER AS A RETIREE OF A LOCAL SYSTEM ARE SUBJECT TO FORFEITURE IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SUBTITLE IF THE LAW ENFORCEMENT OFFICER IS FOUND GUILTY OF, PLEADS GUILTY TO, OR ENTERS A PLEA OF NOLO CONTENDERE TO A QUALIFYING CRIME.

(B) (1) BENEFITS PAYABLE TO A LAW ENFORCEMENT OFFICER AS A RETIREE OF A LOCAL SYSTEM MAY NOT BE FORFEITED OR REDUCED IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE FORFEITURE OR REDUCTION WILL NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF THE LOCAL SYSTEM.

(2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF A LOCAL SYSTEM, ANY FORFEITURE OF BENEFITS THAT TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE'S DETERMINATION SHALL BE REVERSED IN ACCORDANCE WITH § 40-207 OF THIS SUBTITLE TO THE EXTENT NECESSARY TO COMPLY WITH THE DETERMINATION.

(C) A COURT OF COMPETENT JURISDICTION MAY EXPRESSLY ORDER THAT A BENEFIT UNDER A LOCAL SYSTEM BE ASSIGNED TO A SPOUSE, FORMER

SPOUSE, CHILD, OR OTHER DEPENDENT WHEN AN ORDER OF BENEFIT FORFEITURE IS ISSUED IN ACCORDANCE WITH § 40-204 OF THIS SUBTITLE.

40-204.

(A) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN CONVICTION OF A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER'S RETIREMENT ALLOWANCE SHALL BE FORFEITED IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SECTION.

(B) (1) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY SHALL FILE A COMPLAINT IN CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER'S BENEFITS IN WHOLE OR IN PART.

(2) NOTICE OF THE COMPLAINT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SERVED ON:

(I) THE LAW ENFORCEMENT OFFICER;

(II) ANY KNOWN SPOUSE OF THE LAW ENFORCEMENT OFFICER;

(III) ANY KNOWN DEPENDENTS OF THE LAW ENFORCEMENT OFFICER;

(IV) THE LAW ENFORCEMENT OFFICER'S DESIGNATED BENEFICIARIES;

(Over)

(V) ANY FORMER SPOUSE WHO HAS BEEN ASSIGNED BENEFITS UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

(VI) THE LOCAL SYSTEM.

(3) NOTWITHSTANDING § 4-312 OF THE GENERAL PROVISIONS ARTICLE, ON WRITTEN REQUEST, THE LOCAL SYSTEM SHALL PROVIDE THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WITH AVAILABLE INFORMATION FROM THE RETIREMENT RECORDS OF THE LAW ENFORCEMENT OFFICER TO ASSIST THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY IN PROVIDING THE NOTICE REQUIRED UNDER THIS SUBSECTION.

(C) THE COURT SHALL ENTER AN ORDER REQUIRING THE FORFEITURE, IN WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A QUALIFYING CRIME;

(2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE LOCAL SYSTEM; AND

(3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT OFFICER WAS AN ACTIVE MEMBER OF THE LOCAL SYSTEM.

(D) ONLY SERVICE CREDIT IN THE LOCAL SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER IS A MEMBER WHEN THE QUALIFYING CRIME IS COMMITTED IS ELIGIBLE FOR FORFEITURE UNDER THIS SECTION.

(E) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.

(2) WHEN DETERMINING THE AMOUNT OF BENEFITS TO BE FORFEITED, THE COURT SHALL CONSIDER:

(I) THE SEVERITY OF THE CRIME;

(II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE CRIME;

(III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW ENFORCEMENT OFFICER;

(IV) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW ENFORCEMENT OFFICER;

(V) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW ENFORCEMENT OFFICER'S SPOUSE, CHILDREN, OR OTHER DEPENDENTS;

(VI) ANY INTEREST IN BENEFITS OF A FORMER SPOUSE ESTABLISHED UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

(VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

(F) (1) IF THE COURT ENTERS AN ORDER REQUIRING THE FORFEITURE OF BENEFITS, THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE

(Over)

PAID TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT FOR PURPOSES OF CHILD SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.

(2) WHEN DETERMINING WHETHER TO ENTER A DOMESTIC RELATIONS ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL CONSIDER WHETHER THE LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILDREN, OR DEPENDENTS WERE CULPABLE OR COMPLICIT IN THE COMMISSION OF THE QUALIFYING CRIME.

(3) THE COURT MAY NOT ORDER BENEFITS TO BE PAID TO A LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT IN A MANNER THAT IS INCONSISTENT WITH THE PAYMENT OF BENEFITS IN THE LOCAL SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER WAS A MEMBER.

(G) (1) AN ORDER REQUIRING A FORFEITURE OF BENEFITS ISSUED UNDER THIS SECTION MAY NOT IMPAIR OR ALTER AN EXISTING DOMESTIC RELATIONS ORDER PROVIDING BENEFITS TO A FORMER SPOUSE OF A LAW ENFORCEMENT OFFICER.

(2) A LAW ENFORCEMENT OFFICER'S INTEREST IN A BENEFIT OF A FORMER SPOUSE ESTABLISHED BY A DOMESTIC RELATIONS ORDER MAY NOT BE SUBJECT TO A FORFEITURE OR REDUCTION UNDER THIS SUBTITLE.

(H) BENEFITS AVAILABLE TO A LAW ENFORCEMENT OFFICER AS A BENEFICIARY MAY NOT BE SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE.

(A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE A FORFEITURE ORDER IS ISSUED UNDER § 40-204 OF THIS SUBTITLE, THE LOCAL SYSTEM MAY RECOVER FROM THE LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS PAID TO THE LAW ENFORCEMENT OFFICER BEFORE THE ORDER.

(B) THE RECOVERY UNDER SUBSECTION (A) OF THIS SECTION IS LIMITED TO AN AMOUNT EQUAL TO THE BENEFITS THAT WOULD HAVE BEEN FORFEITED HAD THE FORFEITURE ORDER BEEN ISSUED BEFORE THE LAW ENFORCEMENT OFFICER BEGAN RECEIVING ANY BENEFITS AS A RETIREE.

40-206.

(A) THIS SECTION APPLIES TO A LAW ENFORCEMENT OFFICER WHO IS NOT A RETIREE.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LAW ENFORCEMENT OFFICER MAY SUBMIT AN APPLICATION FOR RETIREMENT.

(C) IF A LAW ENFORCEMENT OFFICER IS ELIGIBLE TO APPLY FOR A RETIREMENT ALLOWANCE, A LAW ENFORCEMENT OFFICER'S APPLICATION FOR RETIREMENT BENEFITS:

(1) SHALL BE CONSIDERED SUBMITTED ON THE FIRST DAY OF THE MONTH AFTER IT IS PROPERLY COMPLETED AND SUBMITTED TO THE LOCAL SYSTEM; AND

(2) MAY NOT BE PROCESSED BY THE LOCAL SYSTEM UNLESS AND UNTIL THE FINAL ADJUDICATION OF THE CHARGE THAT DOES NOT RESULT IN CONVICTION.

40-207.

(A) (1) ON RECEIPT OF AN ORDER THAT REVERSES OR OVERTURNS A CONVICTION OF A LAW ENFORCEMENT OFFICER, THE COURT THAT ISSUED A FORFEITURE ORDER UNDER § 40-204 OF THIS SUBTITLE SHALL RESCIND THE FORFEITURE ORDER AND ORDER THE LOCAL SYSTEM TO PAY ANY BENEFITS THAT ARE PAYABLE TO THE LAW ENFORCEMENT OFFICER UNDER THE PROVISIONS OF THE LOCAL SYSTEM.

(2) WHEN A COURT RESCINDS A FORFEITURE ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL ALSO RESCIND ANY DOMESTIC RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 40-204(F) OF THIS SUBTITLE.

(B) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS A RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED:

(1) THE LAW ENFORCEMENT OFFICER'S BENEFITS SHALL BE RESTORED BACK TO THE DATE THE BENEFIT PAYMENTS CEASED;

(2) THE LAW ENFORCEMENT OFFICER'S ALLOWANCE SHALL:

(I) BE PAID BEGINNING THE MONTH AFTER THE LOCAL SYSTEM IS NOTIFIED THAT THE CONVICTION IS OVERTURNED; AND

(II) INCLUDE ANY COST-OF-LIVING ADJUSTMENTS THAT WOULD HAVE BEEN MADE IN THE TIME BETWEEN THE CONVICTION AND THE TIME BENEFIT PAYMENTS ARE RESTORED; AND

(3) BENEFIT PAYMENTS THAT WOULD HAVE BEEN MADE DURING THE TIME FROM THE DATE OF CONVICTION TO THE DATE THE CONVICTION IS OVERTURNED SHALL BE MADE TO THE LAW ENFORCEMENT OFFICER, LESS ANY PAYMENTS MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS ORDER DIRECTING PAYMENT OF BENEFITS TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT.

(C) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS NOT A RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED, THE LAW ENFORCEMENT OFFICER MAY RECEIVE BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL SYSTEM.

40-208.

(A) A LAW ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE ORDER ISSUED UNDER § 40-204 OF THIS SUBTITLE IS ENTITLED TO A RETURN OF THE INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON REQUEST AS PROVIDED BY THE LOCAL SYSTEM.

(B) THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY BENEFIT PAYMENTS RECEIVED BY THE LAW ENFORCEMENT OFFICER THAT WOULD HAVE BEEN SUBJECT TO FORFEITURE AND HAVE NOT BEEN RECOVERED BY THE LOCAL SYSTEM UNDER § 40-205 OF THIS SUBTITLE.

40-209.

A LOCAL SYSTEM SHALL ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THIS SUBTITLE.

(Over)

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.”.