
By: **Chairman, Appropriations Committee**

Rules suspended

Introduced and read first time: March 22, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers' Retirement System - Deferred Retirement Option**
3 **Program**

4 FOR the purpose of establishing a Deferred Retirement Option Program for State
5 employees who are members of the Correctional Officers' Retirement System;
6 altering the reasons for terminating membership from the Correctional Officers'
7 Retirement System to include participation in the Deferred Retirement Option
8 Program; providing a certain period for certain employees to elect to participate
9 in the Deferred Retirement Option Program; requiring the State Retirement
10 Agency to request a private letter ruling from the Internal Revenue Service that
11 makes certain confirmations; making this Act contingent on receipt of a certain
12 ruling from the Internal Revenue Service; defining certain terms; and generally
13 relating to the establishment of a Deferred Retirement Option Program in the
14 Employees' Retirement System and the Employees' Pension System.

15 BY repealing and reenacting, with amendments,
16 Article - State Personnel and Pensions
17 Section 25-205
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2001 Supplement)

20 BY adding to
21 Article - State Personnel and Pensions
22 Section 25-401.1
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 2001 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 (2) THE DIFFERENCE BETWEEN 30 YEARS AND THE MEMBER'S
2 ELIGIBILITY SERVICE AS OF THE DATE OF THE MEMBER'S ELECTION TO
3 PARTICIPATE IN THE DROP AND RETIRE FROM THE CORRECTIONAL OFFICERS'
4 RETIREMENT SYSTEM; OR

5 (3) A TERM SELECTED BY THE MEMBER.

6 (E) (1) AN ELIGIBLE MEMBER WHO ELECTS TO PARTICIPATE IN THE DROP
7 SHALL:

8 (I) COMPLETE AND SUBMIT A WRITTEN ELECTION FORM TO THE
9 BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD OF TRUSTEES PROVIDES,
10 STATING:

11 1. THE MEMBER'S INTENTION TO PARTICIPATE IN THE
12 DROP;

13 2. THE DATE WHEN THE MEMBER DESIRES TO RETIRE;

14 3. THE PERIOD THAT THE MEMBER DESIRES TO
15 PARTICIPATE IN THE DROP, AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

16 4. THE DATE WHEN THE MEMBER INTENDS TO TERMINATE
17 EMPLOYMENT WITH THE STATE IN THE FORM OF A BINDING LETTER OF
18 RESIGNATION ACCEPTED BY THE SECRETARY OR THE SECRETARY'S DESIGNEE OF
19 THE DEPARTMENT FOR WHICH THE MEMBER IS EMPLOYED; AND

20 5. ANY OTHER INFORMATION REQUIRED BY THE BOARD OF
21 TRUSTEES TO IMPLEMENT THE DROP; AND

22 (II) COMPLETE AND SUBMIT A WRITTEN RETIREMENT
23 APPLICATION FORM TO THE BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD
24 OF TRUSTEES PROVIDES.

25 (2) AN ELIGIBLE MEMBER'S ELECTION TO PARTICIPATE IN THE DROP IS
26 IRREVOCABLE.

27 (F) (1) A DROP MEMBER'S PARTICIPATION IN THE DROP SHALL COMMENCE
28 ON THE FIRST DAY OF THE MONTH FOLLOWING ACCEPTANCE BY THE BOARD OF
29 TRUSTEES OF THE DROP MEMBER'S COMPLETED ELECTION FORM, RETIREMENT
30 APPLICATION FORM, AND ANY OTHER INFORMATION REQUIRED BY THE BOARD OF
31 TRUSTEES.

32 (2) A DROP MEMBER IS A RETIREE OF THE CORRECTIONAL OFFICERS'
33 RETIREMENT SYSTEM.

34 (G) PARTICIPATION IN THE DROP ENDS IF THE DROP PARTICIPANT:

1 (1) SEPARATES FROM EMPLOYMENT IN ACCORDANCE WITH THE
2 BINDING LETTER OF RESIGNATION SUBMITTED WITH THE MEMBER'S ELECTION
3 FORM;

4 (2) DIES;

5 (3) IS TERMINATED FROM EMPLOYMENT BY THE DROP MEMBER'S
6 PARTICIPATING EMPLOYER AT ANY TIME BEFORE THE DATE SPECIFIED ON THE
7 MEMBER'S ELECTION FORM;

8 (4) SHORTENS THE TIME PERIOD FOR PARTICIPATION IN THE DROP BY
9 DELIVERING TO THE DROP MEMBER'S PARTICIPATING EMPLOYER AND THE BOARD
10 OF TRUSTEES WRITTEN NOTICE OF THE INTENT OF THE DROP MEMBER TO
11 TERMINATE EMPLOYMENT; OR

12 (5) ACCEPTS AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE AS
13 PROVIDED IN SUBSECTION (K) OF THIS SECTION.

14 (H) (1) AS OF THE EFFECTIVE DATE OF PARTICIPATION IN THE DROP, THE
15 BOARD OF TRUSTEES SHALL DETERMINE THE DROP MEMBER'S NORMAL SERVICE
16 RETIREMENT ALLOWANCE UNDER § 25-401 OF THIS SUBTITLE.

17 (2) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN THE
18 DROP, THE BOARD OF TRUSTEES SHALL:

19 (I) DEPOSIT THE DROP MEMBER'S NORMAL SERVICE RETIREMENT
20 ALLOWANCE IN THE DROP FOR THE DROP MEMBER'S BENEFIT;

21 (II) ADJUST THE DROP MEMBER'S NORMAL SERVICE RETIREMENT
22 ALLOWANCE EACH FISCAL YEAR AS PROVIDED IN TITLE 29, SUBTITLE 4, PART VI OF
23 THIS ARTICLE; AND

24 (III) ACCRUE INTEREST ON THE AMOUNTS CALCULATED UNDER
25 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH FOR THE DROP MEMBER INTO THE
26 DROP AT THE RATE OF 6% A YEAR, COMPOUNDED MONTHLY.

27 (3) A DROP MEMBER MAY NOT RECEIVE CREDITABLE SERVICE OR
28 ELIGIBILITY SERVICE DURING THE PERIOD THAT THE DROP MEMBER PARTICIPATES
29 IN THE DROP.

30 (4) A DROP MEMBER'S COMPENSATION DURING THE PERIOD THAT THE
31 DROP MEMBER PARTICIPATES IN THE DROP MAY NOT BE:

32 (I) SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF § 21-303
33 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER CONTRIBUTION
34 FOR PENSION OR RETIREMENT PURPOSES; OR

35 (II) USED TO INCREASE THE DROP MEMBER'S AVERAGE FINAL
36 COMPENSATION EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION.

1 (5) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN THE
2 DROP, THE DROP MEMBER SHALL:

3 (I) CONTINUE TO RECEIVE COMPENSATION, HEALTH INSURANCE,
4 AND OTHER BENEFIT OPTIONS ESTABLISHED UNDER THE STATE EMPLOYEE AND
5 RETIREE HEALTH AND WELFARE BENEFIT PROGRAM ADMINISTERED BY THE
6 SECRETARY OF BUDGET AND MANAGEMENT, AND ANY OTHER BENEFITS AS AN
7 EMPLOYEE OF THE STATE;

8 (II) BE SUBJECT TO THE PERSONNEL LAW, REGULATIONS, AND
9 POLICIES APPLICABLE TO AN EMPLOYEE OF THE STATE AGENCY FOR WHICH THE
10 MEMBER IS EMPLOYED; AND

11 (III) RECEIVE RETIREMENT BENEFITS ONLY TO THE EXTENT
12 PROVIDED IN THIS SECTION.

13 (6) THE BOARD OF TRUSTEES IS NOT REQUIRED TO ESTABLISH AN
14 INDIVIDUAL DROP ACCOUNT FOR EACH DROP MEMBER.

15 (7) EACH YEAR, THE BOARD OF TRUSTEES SHALL PROVIDE A DROP
16 MEMBER WITH A WRITTEN ACCOUNTING OF THE DROP MEMBER'S ACCOUNT
17 BALANCE IN THE DROP.

18 (I) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, ON
19 TERMINATION OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF
20 TRUSTEES SHALL PAY TO THE DROP MEMBER OR, IF THE DROP MEMBER HAS DIED,
21 THE DESIGNATED BENEFICIARY OF THE DROP MEMBER, THE AMOUNT ACCRUED IN
22 THE DROP FOR THE DROP MEMBER UNDER SUBSECTION (H)(2) OF THIS SECTION,
23 REDUCED BY ANY WITHHOLDING TAXES REMITTED TO THE INTERNAL REVENUE
24 SERVICE OR OTHER TAXING AUTHORITY, IN A LUMP SUM.

25 (2) THE DESIGNATED BENEFICIARY OF A DROP MEMBER IS THE PERSON
26 NAMED AS A BENEFICIARY IN AN ACKNOWLEDGED WRITTEN DESIGNATION FILED
27 WITH THE BOARD OF TRUSTEES BY THE DROP MEMBER.

28 (3) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP MEMBER
29 MAY DIRECT THE BOARD OF TRUSTEES TO PAY ALL OR A PORTION OF THE AMOUNT
30 ACCRUED FOR THE DROP MEMBER'S BENEFIT UNDER SUBSECTION (H)(2) OF THIS
31 SECTION DIRECTLY TO THE CUSTODIAN OF AN ELIGIBLE RETIREMENT PLAN AS
32 PROVIDED IN TITLE 21, SUBTITLE 6 OF THIS ARTICLE.

33 (4) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP MEMBER
34 IS ELIGIBLE TO RECEIVE THE AMOUNT DUE UNDER THIS SUBSECTION WITHIN 90
35 DAYS AFTER:

36 (I) THE DATE OF TERMINATION OF THE DROP MEMBER'S
37 PARTICIPATION IN THE DROP;

1 (II) THE RECEIPT BY THE BOARD OF TRUSTEES OF A COMPLETED
2 APPLICATION TO RECEIVE THE DROP AMOUNT, ON THE FORM THAT THE BOARD OF
3 TRUSTEES PROVIDES; AND

4 (III) THE RECEIPT BY THE BOARD OF TRUSTEES OF ANY OTHER
5 INFORMATION THAT THE BOARD OF TRUSTEES REQUIRES TO PROCESS PAYMENT OF
6 THE DROP MEMBER'S ACCOUNT BALANCE TO THE DROP PARTICIPANT, THE
7 DESIGNATED BENEFICIARY OF THE DROP PARTICIPANT, OR THE CUSTODIAN OF AN
8 ELIGIBLE RETIREMENT PLAN.

9 (J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AS
10 OF THE FIRST DAY OF THE MONTH FOLLOWING TERMINATION OF A DROP MEMBER'S
11 PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES SHALL COMMENCE AND
12 CONTINUE PAYMENT OF THE NORMAL SERVICE RETIREMENT ALLOWANCE,
13 INCLUDING THE COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN TITLE 29,
14 SUBTITLE 4, PART VI OF THIS ARTICLE, TO THE MEMBER AS PROVIDED IN §§ 21-401
15 THROUGH 21-406 AND 25-401 OF THIS ARTICLE.

16 (2) IF A DROP MEMBER DIES BEFORE TERMINATION OF THE DROP
17 MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES SHALL PAY
18 BENEFITS, INCLUDING THE COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN TITLE
19 29, SUBTITLE 4, PART VI OF THIS ARTICLE, TO THE BENEFICIARY AS PROVIDED IN §
20 21-403 OF THIS ARTICLE.

21 (K) (1) A DROP MEMBER IS ELIGIBLE TO APPLY FOR AN ACCIDENTAL
22 DISABILITY RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE.

23 (2) IF THE BOARD OF TRUSTEES GRANTS A DROP MEMBER AN
24 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, THE DROP MEMBER MAY ELECT
25 TO RECEIVE THE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE OR CONTINUE
26 TO PARTICIPATE IN THE DROP.

27 (3) (I) IF A DROP MEMBER ELECTS TO RECEIVE A DISABILITY
28 RETIREMENT ALLOWANCE INSTEAD OF CONTINUING TO PARTICIPATE IN THE DROP,
29 THE DROP MEMBER SHALL:

30 1. SUBMIT AN APPLICATION TO THE BOARD OF TRUSTEES,
31 ON THE FORM THE BOARD OF TRUSTEES PROVIDES, TO RECEIVE PAYMENT OF THE
32 AMOUNT ACCRUED IN THE DROP IN ACCORDANCE WITH SUBSECTION (I) OF THIS
33 SECTION;

34 2. EXECUTE A WRITTEN WAIVER OF ANY BENEFITS TO
35 WHICH THE DROP MEMBER MAY BE ENTITLED UNDER THE DROP; AND

36 3. SUBMIT AN APPLICATION TO RETIRE WITH AN
37 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, ON THE FORM THE BOARD OF
38 TRUSTEES PROVIDES, STATING THE EFFECTIVE DATE OF THE DROP MEMBER'S
39 RETIREMENT AS AN ACCIDENTAL DISABILITY RETIREE.

1 (II) ON ACCEPTANCE OF THE APPLICATION FOR PAYMENT AND
2 APPLICATION TO RETIRE, THE BOARD OF TRUSTEES SHALL COMMENCE PAYMENT OF
3 AN ACCIDENTAL DISABILITY ALLOWANCE TO THE DROP MEMBER AS PROVIDED IN §
4 29-110 OF THIS ARTICLE, EXCEPT THAT THE DROP MEMBER'S AVERAGE FINAL
5 COMPENSATION SHALL BE COMPUTED AS OF THE EFFECTIVE DATE OF THE DROP
6 MEMBER'S APPLICATION FOR AN ACCIDENTAL DISABILITY RETIREMENT
7 ALLOWANCE.

8 SECTION 2. AND BE FURTHER ENACTED, Members of the Correctional
9 Officers' Retirement System who have 25 or more years of eligibility service as of the
10 effective date of this Act will be provided a one-time 6-month window of opportunity
11 to elect to participate in the Deferred Retirement Option Program for a period not to
12 exceed 5 years. The window of opportunity will commence on the first day of the
13 month after the State Retirement Agency receives a favorable determination letter
14 from the Internal Revenue Service.

15 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2002,
16 the State Retirement Agency shall request a determination letter from the Internal
17 Revenue Service that confirms the continued qualification under § 401 of the Internal
18 Revenue Code of the Correctional Officers' Retirement System, as amended by the
19 Deferred Retirement Option Program established under Section 1 of this Act.

20 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
21 take effect contingent on receipt of a determination letter from the Internal Revenue
22 Service that confirms that the Correctional Officers' Retirement System as amended
23 by the Deferred Retirement Option Program, is a qualified plan under § 401 of the
24 Internal Revenue Code. If a favorable determination letter is received, Section 1 of
25 this Act shall take effect the first day of the month after the State Retirement Agency
26 receives the letter. If the State Retirement Agency does not receive a favorable
27 determination letter, Section 1 of this Act, with no further action required by the
28 General Assembly, shall be null and void and of no further force and effect. The State
29 Retirement Agency, within 5 days after receiving the determination letter from the
30 Internal Revenue Service, shall forward a copy of the ruling to the Department of
31 Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

32 SECTION 5. AND BE FURTHER ENACTED, That, subject to the provisions of
33 Section 4 of this Act, this Act shall take effect July 1, 2002.