
By: **Senator McFadden**

Introduced and read first time: February 4, 2005

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers' Retirement System - Benefits**

3 FOR the purpose of altering the membership of the Correctional Officers' Retirement
4 System; altering the formula for computing the retirement allowance of
5 members of the Correctional Officers' Retirement System; establishing a
6 Deferred Retirement Option Program for certain members in the System;
7 requiring the State Retirement Agency to request certain documentation from
8 the Internal Revenue Service; making this Act subject to a certain a
9 contingency; and generally relating to the Correctional Officers' Retirement
10 System.

11 BY renumbering

12 Article - State Personnel and Pensions
13 Section 25-401.1
14 to be Section 25-401.2
15 Annotated Code of Maryland
16 (2004 Replacement Volume)

17 BY repealing and reenacting, with amendments,

18 Article - State Personnel and Pensions
19 Section 25-201 and 25-401
20 Annotated Code of Maryland
21 (2004 Replacement Volume)

22 BY adding to

23 Article - State Personnel and Pensions
24 Section 25-401.1
25 Annotated Code of Maryland
26 (2004 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 25-401.1 of Article - State Personnel and Pensions of
29 the Annotated Code of Maryland be renumbered to be Section(s) 25-401.2.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - State Personnel and Pensions**

4 25-201.

5 (a) Except as provided in subsection (b) of this section, this subtitle applies
6 only to:

7 (1) correctional officers serving in any of the first six job classifications;
8 [and]

9 (2) security attendants at Clifton T. Perkins Hospital Center; AND

10 (3) AN INDIVIDUAL SERVING AS A CORRECTIONAL DIETARY,
11 MAINTENANCE, OR SUPPLY OFFICER.

12 (b) This subtitle does not apply to an employee of the Baltimore City Jail as of
13 June 30, 1991, who:

14 (1) became an employee of the Baltimore City Detention Center on July
15 1, 1991; and

16 (2) who did not elect to become a member of the Correctional Officers'
17 Retirement System on that date.

18 25-401.

19 (a) A member may retire with a normal service retirement allowance if:

20 (1) on or before the date of retirement, the member has at least 20 years
21 of eligibility service;

22 (2) for at least 5 years immediately before retirement, the member [was
23 a security attendant at Clifton T. Perkins Hospital Center, a correctional officer in
24 any of the first six job classifications, or in a combination of these positions] SERVED
25 IN A POSITION DESCRIBED IN § 25-201(A) OF THIS TITLE; and

26 (3) the member completes and submits a written application to the
27 Board of Trustees stating the date when the member desires to retire.

28 (b) On retirement under this section, a member is entitled to receive a normal
29 service retirement allowance that equals THE SUM OF:

30 (1) one fifty-fifth of the member's average final compensation
31 multiplied by the number of years of creditable service ATTAINED ON OR BEFORE
32 JUNE 30, 2005; AND

1 (2) 2.5% OF THE MEMBER'S AVERAGE FINAL COMPENSATION
2 MULTIPLIED BY THE NUMBER OF YEARS OF CREDITABLE SERVICE ATTAINED ON OR
3 AFTER JULY 1, 2005.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:
6 25-401.1.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "DROP" MEANS THE DEFERRED RETIREMENT OPTION PROGRAM
10 ESTABLISHED UNDER THIS SECTION.

11 (3) "DROP MEMBER" MEANS A MEMBER OF THE CORRECTIONAL
12 OFFICERS' RETIREMENT SYSTEM WHO:

13 (I) IS ELIGIBLE TO PARTICIPATE IN THE DROP AS PROVIDED IN
14 SUBSECTION (C) OF THIS SECTION; AND

15 (II) ELECTS TO PARTICIPATE IN THE DROP AS PROVIDED IN
16 SUBSECTION (E) OF THIS SECTION.

17 (B) THERE IS A DROP FOR ELIGIBLE MEMBERS OF THE CORRECTIONAL
18 OFFICERS' RETIREMENT SYSTEM.

19 (C) A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM IS
20 ELIGIBLE TO PARTICIPATE IN THE DROP IF THE MEMBER:

21 (1) HAS AT LEAST 20 AND LESS THAN 25 YEARS OF ELIGIBILITY SERVICE;
22 AND

23 (2) IS LESS THAN 60 YEARS OLD.

24 (D) (1) AN ELIGIBLE MEMBER MAY ELECT TO PARTICIPATE IN THE DROP
25 FOR A PERIOD NOT TO EXCEED THE LESSER OF:

26 (I) 5 YEARS; OR

27 (II) A TERM SELECTED BY THE MEMBER.

28 (2) A MEMBER WHO HAS MORE THAN 25 YEARS OF SERVICE ON JULY 1,
29 2005, MAY ELECT TO PARTICIPATE IN THE DROP FOR A PERIOD NOT TO EXCEED 5
30 YEARS, IF THE ELECTION IS MADE UNDER SUBSECTION (E) OF THIS SECTION ON OR
31 BEFORE DECEMBER 31, 2005.

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

1 (I) COMPLETE AND SUBMIT A WRITTEN ELECTION FORM TO THE
2 BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD OF TRUSTEES PROVIDES,
3 STATING:

4 1. THE MEMBER'S INTENTION TO PARTICIPATE IN THE
5 DROP;

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

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

9 4. THE DATE WHEN THE MEMBER INTENDS TO TERMINATE
10 EMPLOYMENT WITH THE STATE IN THE FORM OF A BINDING LETTER OF
11 RESIGNATION ACCEPTED BY THE COMMISSIONER OF CORRECTIONS OR THE
12 COMMISSIONER'S DESIGNEE OF THE DEPARTMENT FOR WHICH THE MEMBER IS
13 EMPLOYED; AND

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

16 (II) COMPLETE AND SUBMIT A WRITTEN RETIREMENT
17 APPLICATION FORM TO THE BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD
18 OF TRUSTEES PROVIDES.

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

21 (F) (1) A DROP MEMBER'S PARTICIPATION IN THE DROP SHALL COMMENCE
22 ON THE FIRST DAY OF THE MONTH FOLLOWING ACCEPTANCE BY THE BOARD OF
23 TRUSTEES OF THE DROP MEMBER'S COMPLETED ELECTION FORM, RETIREMENT
24 APPLICATION FORM, AND ANY OTHER INFORMATION REQUIRED BY THE BOARD OF
25 TRUSTEES.

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

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

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

32 (2) ATTAINS AGE 60;

33 (3) DIES;

34 (4) IS TERMINATED FROM EMPLOYMENT BY THE DROP MEMBER'S
35 PARTICIPATING EMPLOYER AT ANY TIME BEFORE THE DATE SPECIFIED ON THE
36 MEMBER'S ELECTION FORM;

1 (5) SHORTENS THE TIME PERIOD FOR PARTICIPATION IN THE DROP BY
2 DELIVERING TO THE DROP MEMBER'S PARTICIPATING EMPLOYER AND THE BOARD
3 OF TRUSTEES WRITTEN NOTICE OF THE INTENT OF THE DROP MEMBER TO
4 TERMINATE EMPLOYMENT; OR

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

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

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

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

14 (II) ADJUST THE DROP MEMBER'S NORMAL SERVICE RETIREMENT
15 ALLOWANCE EACH FISCAL YEAR AS PROVIDED IN TITLE 29, SUBTITLE 4, PART III OF
16 THIS ARTICLE; AND

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

20 (3) A DROP MEMBER MAY NOT RECEIVE CREDITABLE SERVICE OR
21 ELIGIBILITY SERVICE DURING THE PERIOD THAT THE DROP MEMBER PARTICIPATES
22 IN THE DROP.

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

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

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

30 (5) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN THE
31 DROP, THE DROP MEMBER SHALL:

32 (I) CONTINUE TO RECEIVE COMPENSATION, HEALTH INSURANCE,
33 AND OTHER BENEFIT OPTIONS ESTABLISHED UNDER THE STATE EMPLOYEE AND
34 RETIREE HEALTH AND WELFARE BENEFIT PROGRAM ADMINISTERED BY THE
35 SECRETARY OF BUDGET AND MANAGEMENT, AND ANY OTHER BENEFITS AS AN
36 EMPLOYEE OF THE STATE;

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

4 (III) RECEIVE RETIREMENT BENEFITS ONLY TO THE EXTENT
5 PROVIDED IN THIS SECTION.

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

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

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

18 (2) THE DESIGNATED BENEFICIARY OF A DROP MEMBER IS:

19 (I) THE DROP MEMBER'S SURVIVING SPOUSE;

20 (II) IF THERE IS NOT A SURVIVING SPOUSE OR IF THE SURVIVING
21 SPOUSE DIES BEFORE THE YOUNGEST CHILD IS 18 YEARS OLD, EACH CHILD OF THE
22 DECEASED DROP MEMBER WHO IS UNDER 18 YEARS OLD; OR

23 (III) IF THERE IS NOT A SURVIVING SPOUSE OR A CHILD WHO IS
24 UNDER 18 YEARS OLD, THE PERSON NAMED AS A BENEFICIARY IN AN
25 ACKNOWLEDGED WRITTEN DESIGNATION FILED WITH THE BOARD OF TRUSTEES BY
26 THE DROP MEMBER.

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

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

35 (I) THE DATE OF TERMINATION OF THE DROP MEMBER'S
36 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 III OF THIS ARTICLE, TO THE MEMBER AS PROVIDED IN § 25-401 OF
15 THIS SUBTITLE.

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 50%
18 OF THE NORMAL SERVICE RETIREMENT ALLOWANCE, INCLUDING THE
19 COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN TITLE 29, SUBTITLE 4, PART III OF
20 THIS ARTICLE, TO THE BENEFICIARY.

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 4. AND BE IT FURTHER ENACTED, That, on or before July 1, 2005,
9 the State Retirement Agency shall request a determination letter from the Internal
10 Revenue Service that confirms the continued qualification under § 401 of the Internal
11 Revenue Code of the Correctional Officers' Retirement System, as amended by the
12 Deferred Retirement Option Program established under Section 3 of this Act.

13 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this
14 Act shall take effect contingent on receipt of a determination letter from the Internal
15 Revenue Service that confirms that the Correctional Officers' Retirement System, as
16 amended by the Deferred Retirement Option Program, is a qualified plan under § 401
17 of the Internal Revenue Code. If a favorable determination letter is received, Sections
18 1 and 3 of this Act shall take effect the first day of the month after the State
19 Retirement Agency receives the letter. If the State Retirement Agency does not
20 receive a favorable determination letter, Sections 1 and 3 of this Act, with no further
21 action required by the General Assembly, shall be null and void and of no further force
22 and effect. The State Retirement Agency, within 5 days after receiving the
23 determination letter from the Internal Revenue Service, shall forward a copy of the
24 ruling to the Department of Legislative Services, 90 State Circle, Annapolis,
25 Maryland 21401.

26 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Section 5 of
27 this Act, this Act shall take effect July 1, 2005.