

HOUSE BILL 572

K4

2lr0373

By: Delegates George, Afzali, Aumann, Barnes, Bates, Beidle, Beitzel, Bohanan, Boteler, Burns, Clagett, Cluster, Costa, Davis, DeBoy, Dwyer, Eckardt, Elliott, Feldman, Frank, Frick, Frush, Glass, Haddaway-Riccio, Hershey, Hogan, Hough, Impallaria, Ivey, Jacobs, James, Kach, K. Kelly, Kipke, Krebs, Love, McComas, McConkey, McDermott, McMillan, W. Miller, Minnick, Murphy, Myers, Norman, O'Donnell, Olszewski, Otto, Parrott, Ready, B. Robinson, Schuh, Schulz, Serafini, Sophocleus, Stocksdale, Szeliga, Valentino-Smith, Vitale, Weir, Wood, and Zucker

Introduced and read first time: February 3, 2012

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Elected Public Officials—Criminal Acts—Forfeiture or Suspension of~~
3 ~~Retirement Benefits~~
4 Task Force to Study Retirement Benefits for Public Officials

5 ~~FOR the purpose of subjecting certain retirement benefits of certain elected public~~
6 ~~officials to forfeiture under certain circumstances related to the conviction of or~~
7 ~~entry of a plea of nolo contendere for certain crimes; subjecting certain~~
8 ~~retirement benefits of certain elected public officials when charged with certain~~
9 ~~criminal offenses to suspension under certain circumstances; providing that~~
10 ~~certain elected public officials may have certain retirement benefits restored~~
11 ~~under certain circumstances; providing for the application of this Act; and~~
12 ~~generally relating to the forfeiture or suspension of certain retirement benefits~~
13 ~~of certain elected public officials after the charge of the commission of or the~~
14 ~~conviction of certain criminal offenses.~~

15 ~~BY adding to~~
16 ~~Article—State Personnel and Pensions~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Section 41-101 to be under the new title "Title 41. Forfeiture or Suspension of Retirement Benefits"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2011 Supplement)~~

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

FOR the purpose of establishing the Task Force to Study Retirement Benefits for Public Officials; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Retirement Benefits for Public Officials.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Retirement Benefits for Public Officials.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Executive Director of the State Retirement Agency or the Executive Director's designee;

(4) the Executive Director of the State Ethics Commission, or the Executive Director's designee;

(5) one member of the Board of Governors of the Maryland State Bar Association, appointed by the President of the Maryland State Bar Association;

(6) one representative of the Maryland Attorney General's Office, appointed by the Attorney General;

(7) the Executive Director of the Maryland Association of Counties, or the Executive Director's designee; and

1 (8) the Executive Director of the Maryland Municipal League, or the
2 Executive Director's designee.

3 (c) The President of the Senate and the Speaker of the House jointly shall
4 designate the chair of the Task Force.

5 (d) The Department of Legislative Services shall provide staff for the Task
6 Force.

7 (e) A member of the Task Force:

8 (1) may not receive compensation as a member of the Task Force; but

9 (2) is entitled to reimbursement for expenses under the Standard
10 State Travel Regulations, as provided in the State budget.

11 (f) The Task Force shall:

12 (1) study the possible forfeiture or suspension of retirement benefits
13 for public officials when charged with or convicted of a criminal act, including:

14 (i) the circumstances under which retirement benefits should
15 be subject to forfeiture or suspension;

16 (ii) the public officials that should be subject to possible
17 forfeiture or suspension of benefits;

18 (iii) the process for making a determination to suspend or forfeit
19 retirement benefits; and

20 (iv) the process for notifying the appropriate agency if a
21 determination is made to suspend or forfeit retirement benefits; and

22 (2) make recommendations regarding the forfeiture or suspension of
23 retirement benefits for public officials charged with or convicted of a criminal act.

24 (g) On or before November 30, 2012, the Task Force shall report its findings
25 and recommendations to the Senate Budget and Taxation Committee, the House
26 Appropriations Committee, and the Joint Committee on Pensions, in accordance with
27 § 2-1246 of the State Government Article.

28 ~~Article — State Personnel and Pensions~~

29 ~~TITLE 41. FORFEITURE OR SUSPENSION OF RETIREMENT BENEFITS.~~

1 ~~(A) THIS SECTION APPLIES TO:~~

2 ~~(1) ANY PUBLIC OFFICIAL ELECTED UNDER STATE, COUNTY, OR~~
3 ~~MUNICIPAL LAW WHO TAKES PUBLIC OFFICE OR IS REELECTED TO PUBLIC~~
4 ~~OFFICE ON OR AFTER JULY 1, 2012; AND~~

5 ~~(2) RETIREMENT BENEFITS ACCRUED ON OR AFTER JULY 1, 2012.~~

6 ~~(B) (1) RETIREMENT BENEFITS MAY NOT BE PAID AND ARE NOT~~
7 ~~PAYABLE TO ANY ELECTED PUBLIC OFFICIAL DESCRIBED IN SUBSECTION (A) OF~~
8 ~~THIS SECTION OR ANY BENEFICIARY OF AN ELECTED PUBLIC OFFICIAL IF THE~~
9 ~~ELECTED PUBLIC OFFICIAL IS CONVICTED OF OR ENTERS A PLEA OF NOLO~~
10 ~~CONTENDERE FOR ANY CRIME COMMITTED DURING THE TERM OF OFFICE OF~~
11 ~~THE ELECTED PUBLIC OFFICIAL THAT IS:~~

12 ~~(I) A FELONY; OR~~

13 ~~(II) A MISDEMEANOR RELATED TO THE PUBLIC DUTIES AND~~
14 ~~RESPONSIBILITIES OF THE ELECTED PUBLIC OFFICIAL THAT INVOLVES MORAL~~
15 ~~TURPITUDE FOR WHICH THE PENALTY MAY BE IMPRISONMENT IN A~~
16 ~~CORRECTIONAL FACILITY.~~

17 ~~(2) A RETIRED ELECTED PUBLIC OFFICIAL AND THE~~
18 ~~BENEFICIARY OF THE RETIRED ELECTED PUBLIC OFFICIAL ARE SUBJECT TO A~~
19 ~~FORFEITURE OF BENEFITS IF THE RETIRED ELECTED PUBLIC OFFICIAL OR THE~~
20 ~~OFFICIAL'S BENEFICIARY IS RECEIVING BENEFITS AT THE TIME THE RETIRED~~
21 ~~ELECTED PUBLIC OFFICIAL IS CONVICTED OF OR ENTERS A PLEA OF NOLO~~
22 ~~CONTENDERE FOR A CRIME DESCRIBED IN PARAGRAPH (1) OF THIS~~
23 ~~SUBSECTION.~~

24 ~~(3) IF AN ELECTED PUBLIC OFFICIAL OR A RETIRED ELECTED~~
25 ~~PUBLIC OFFICIAL IS SUBJECT TO A FORFEITURE OF BENEFITS UNDER~~
26 ~~PARAGRAPH (1) OR (2) OF THIS SUBSECTION, THE ELECTED PUBLIC OFFICIAL,~~
27 ~~RETIRED ELECTED PUBLIC OFFICIAL, OR BENEFICIARY OF THE ELECTED~~
28 ~~PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS ENTITLED ONLY~~
29 ~~TO A RETURN OF THE ELECTED PUBLIC OFFICIAL'S OR RETIRED ELECTED~~
30 ~~PUBLIC OFFICIAL'S ACCUMULATED CONTRIBUTIONS, PLUS INTEREST, LESS ANY~~
31 ~~BENEFIT PAYMENTS ALREADY MADE.~~

32 ~~(4) IF THE CONVICTION OF THE ELECTED PUBLIC OFFICIAL OR~~
33 ~~RETIRED ELECTED PUBLIC OFFICIAL IS REVERSED OR OVERTURNED, THE~~
34 ~~BENEFITS THAT ARE PAYABLE TO THE ELECTED PUBLIC OFFICIAL, RETIRED~~
35 ~~ELECTED PUBLIC OFFICIAL, OR BENEFICIARY SHALL BE RESTORED.~~

1 ~~(c) (1) THIS SUBSECTION APPLIES ONLY TO A CRIMINAL OFFENSE~~
2 ~~THAT IS:~~

3 ~~(i) A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE~~
4 ~~CRIMINAL LAW ARTICLE;~~

5 ~~(ii) A SEXUAL OFFENSE, AS PROVIDED UNDER TITLE 3,~~
6 ~~SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE; OR~~

7 ~~(iii) A CHILD PORNOGRAPHY OFFENSE, AS PROVIDED UNDER~~
8 ~~§ 11-207 OF THE CRIMINAL LAW ARTICLE.~~

9 ~~(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,~~
10 ~~IF AN ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS~~
11 ~~CHARGED WITH COMMITTING A CRIMINAL OFFENSE LISTED UNDER PARAGRAPH~~
12 ~~(1) OF THIS SUBSECTION THAT OCCURRED WHILE THE ELECTED PUBLIC~~
13 ~~OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL WAS IN OFFICE, RETIREMENT~~
14 ~~BENEFITS SHALL BE SUSPENDED AND ARE NOT PAYABLE TO THE ELECTED~~
15 ~~PUBLIC OFFICIAL, THE RETIRED ELECTED PUBLIC OFFICIAL, OR A BENEFICIARY~~
16 ~~OF THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL.~~

17 ~~(3) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH,~~
18 ~~IF THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS~~
19 ~~ACQUITTED OF THE CHARGES OR THE CHARGES AGAINST THE ELECTED PUBLIC~~
20 ~~OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL ARE DISMISSED OR PLACED~~
21 ~~ON A STET DOCKET, THE RETIREMENT BENEFITS OF THE ELECTED PUBLIC~~
22 ~~OFFICIAL OR RETIRED PUBLIC ELECTED OFFICIAL SHALL BE RESTORED.~~

23 ~~(ii) IF AT ANY TIME CHARGES FOR A CRIMINAL OFFENSE~~
24 ~~THAT OCCURRED WHILE THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED~~
25 ~~PUBLIC OFFICIAL ARE REMOVED FROM THE STET DOCKET FOR THE PURPOSES~~
26 ~~OF RESUMING CRIMINAL PROCEEDINGS, THE PROVISIONS OF PARAGRAPH (2)~~
27 ~~OF THIS SUBSECTION SHALL APPLY.~~

28 ~~(4) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH,~~
29 ~~IF THE CONVICTION OF AN ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED~~
30 ~~PUBLIC OFFICIAL IS OVERTURNED ON APPEAL, THE RETIREMENT BENEFITS OF~~
31 ~~THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL SHALL~~
32 ~~BE RESTORED.~~

33 ~~(ii) IF THE CRIMINAL CASE ON FURTHER APPEAL IS~~
34 ~~REMANDED FOR A NEW TRIAL, THE PROVISIONS OF PARAGRAPH (2) OF THIS~~
35 ~~SUBSECTION SHALL APPLY.~~

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
2 ~~construed to apply only prospectively and may not be applied or interpreted to have~~
3 ~~any effect on or application to any act committed before the effective date of this Act.~~

4 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be~~
5 ~~construed to prohibit a county or municipal corporation from enacting or enforcing any~~
6 ~~law that is more stringent than this Act in relation to the forfeiture of retirement~~
7 ~~benefits.~~

8 SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect July 1, 2012. It shall remain effective for a period of 2 years and, at the end of
10 June 30, 2014, with no further action required by the General Assembly, this Act shall
11 be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.