

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 377  
Appropriations

(Delegate Anderson, *et al.*)

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State Retirement and Pension System - Department of Public Safety and  
Correctional Services Employees - Forfeiture of Retirement Benefits for Criminal  
Conviction

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This bill requires that an employee of the Department of Public Safety and Correctional Services (DPSCS) who is convicted of – or pleads *nolo contendere* to – a crime that was committed while the employee was working, *and* for which the penalty is at least one year in jail, forfeits all retirement and pension benefits payable by the State Retirement and Pension System (SRPS) to the employee or the employee’s beneficiary. However, the individual is entitled to a return of accumulated member contributions, less any benefits already paid. The court that enters the guilty judgment or accepts the plea must issue an order requiring that all pension benefits be forfeited. If the conviction is reversed or overturned, the court that reverses or overturns the conviction must issue an order requiring that benefits be restored. A copy of the order must be provided to the SRPS Board of Trustees within 30 days of being issued.

The bill takes effect July 1, 2014, and applies only prospectively to any crime committed on or after that date.

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**Fiscal Summary**

**State Effect:** Potential minimal reduction in State pension liabilities and contributions to the extent that DPSCS employees are convicted of crimes that prompt forfeiture of their benefits. Any effect is expected to be negligible. The Judiciary can comply with the bill’s reporting requirements with existing budgeted resources. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** There are no provisions in current law addressing the forfeiture of benefits for DPSCS employees who are convicted of a crime. However, House and Senate Joint Resolutions 5 of 2010 prohibits a retired member of the Legislative Pension Plan (LPP), or a retired member's beneficiary, from receiving a retirement allowance under LPP if the member is convicted of or enters a plea of *nolo contendere* to any felony or to a misdemeanor related to the member's public duties and responsibilities that involves moral turpitude for which the penalty may be incarceration. Such members are subject to the forfeiture of LPP benefits, but they are entitled to a return of contributions with interest, less any benefits paid prior to forfeiture. No other State employees are subject to forfeiture of benefits.

**Background:** In April 2013, the federal government indicted 13 female guards at the Baltimore City Detention Center for conspiring with inmates to smuggle contraband into the jail. An additional 14 correctional officers at the detention center were charged with corruption in connection with the case in November 2013. If convicted, these individuals are not affected by the bill because their alleged crimes occurred prior to the bill's effective date.

According to the National Association of State Retirement Administrators, at least 19 other states require or authorize that public pension benefits be forfeited under specified circumstances. In some cases, the forfeiture provisions apply only to elected officials, but in others they apply to all public pension members. The types of crime subject to pension forfeiture also vary from state to state; in some cases only crimes of corruption prompt forfeiture, but in other cases the types of crime are more broad.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** *USA Today*, *Baltimore Sun*, National Association of State Retirement Administrators, Department of Public Safety and Correctional Services, Department of Legislative Services

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