

SENATE BILL 165

K4

5lr0880

By: **Senators Feldman, Guzzone, Hough, Jennings, Kagan, Kelley, Klausmeier, Lee, Madaleno, Manno, Montgomery, Norman, Peters, Raskin, and Waugh**
Introduced and read first time: January 30, 2015
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Constitutional Officers – Forfeiture of**
3 **Benefits**

4 FOR the purpose of prohibiting the payment of certain retirement benefits payable from
5 the State Retirement and Pension System to certain constitutional officers who are
6 convicted of or enter a plea of nolo contendere for certain crimes; requiring a certain
7 court to order the forfeiture of certain retirement benefits under certain
8 circumstances; providing for the return of certain accumulated contributions under
9 certain circumstances; authorizing the Board of Trustees for the State Retirement
10 and Pension System to recover the amount of certain retirement benefits under
11 certain circumstances; requiring a certain court to order the restoration of certain
12 retirement benefits back to a certain date under certain circumstances; requiring a
13 certain clerk of the court to provide a certain order to the Board of Trustees within a
14 certain period of time; providing for the application of this Act; and generally relating
15 to the forfeiture of certain retirement benefits by certain constitutional officers with
16 a criminal conviction.

17 BY adding to

18 Article – State Personnel and Pensions
19 Section 21–701 to be under the new subtitle “Subtitle 7. Forfeiture of Benefits”
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2014 Supplement)

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

24 **Article – State Personnel and Pensions**

25 **SUBTITLE 7. FORFEITURE OF BENEFITS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **21-701.**

2 (A) IN THIS SECTION, "CONSTITUTIONAL OFFICER" MEANS:

3 (1) THE ATTORNEY GENERAL OF THE STATE;

4 (2) THE COMPTROLLER OF THE STATE;

5 (3) THE LIEUTENANT GOVERNOR OF THE STATE;

6 (4) THE SECRETARY OF STATE; OR

7 (5) THE TREASURER OF THE STATE.

8 (B) THIS SECTION APPLIES ONLY TO A CRIME:

9 (1) THAT IS COMMITTED BY A CONSTITUTIONAL OFFICER;

10 (2) IS RELATED TO THE CONSTITUTIONAL OFFICER'S PUBLIC DUTIES
11 AND RESPONSIBILITIES; AND

12 (3) FOR WHICH THE PENALTY MAY BE INCARCERATION OF 1 YEAR OR
13 MORE.

14 (C) BENEFITS UNDER THIS DIVISION II OF THIS ARTICLE MAY NOT BE PAID
15 AND ARE NOT PAYABLE TO AN INDIVIDUAL OR THE INDIVIDUAL'S BENEFICIARY IF
16 AN INDIVIDUAL IS FOUND GUILTY OF OR ENTERS A PLEA OF NOLO CONTENDERE FOR
17 A CRIME DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

18 (D) (1) IF AN INDIVIDUAL IS FOUND GUILTY OF OR ENTERS A PLEA OF
19 NOLO CONTENDERE FOR A CRIME DESCRIBED IN SUBSECTION (B) OF THIS SECTION,
20 THE COURT THAT ENTERS THE GUILTY JUDGMENT OR ACCEPTS THE PLEA OF NOLO
21 CONTENDERE SHALL ISSUE AN ORDER REQUIRING ALL BENEFITS UNDER THIS
22 DIVISION II OF THIS ARTICLE TO BE FORFEITED BY THE INDIVIDUAL AND THE
23 INDIVIDUAL'S BENEFICIARY.

24 (2) AN INDIVIDUAL SUBJECT TO A FORFEITURE ORDER UNDER
25 PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A RETURN OF THE
26 INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS, LESS ANY BENEFIT PAYMENTS
27 ALREADY MADE.

1 **(3) NOTWITHSTANDING § 21-502 OF THIS TITLE, IF BENEFITS ARE**
2 **PAID TO AN INDIVIDUAL SUBJECT TO A FORFEITURE ORDER UNDER PARAGRAPH (1)**
3 **OF THIS SUBSECTION, THE BOARD OF TRUSTEES MAY RECOVER FROM THE**
4 **INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS THE AMOUNT OF BENEFITS PAID TO**
5 **THE INDIVIDUAL AFTER THE FORFEITURE ORDER WAS ISSUED.**

6 **(E) (1) IF THE CONVICTION OF THE INDIVIDUAL FOR A CRIME DESCRIBED**
7 **IN SUBSECTION (B) OF THIS SECTION IS REVERSED OR OVERTURNED, THE COURT**
8 **THAT REVERSES OR OVERTURNS THE CONVICTION SHALL ISSUE AN ORDER**
9 **REQUIRING THE BENEFITS THAT ARE PAYABLE UNDER THIS DIVISION II OF THIS**
10 **ARTICLE TO THE INDIVIDUAL OR THE INDIVIDUAL'S BENEFICIARY TO BE RESTORED.**

11 **(2) IF AN ORDER TO RESTORE BENEFITS IS ISSUED UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION, THE INDIVIDUAL'S BENEFITS SHALL BE**
13 **RESTORED BACK TO THE DATE THE BENEFIT PAYMENTS CEASED.**

14 **(F) THE CLERK OF THE COURT IN WHICH AN ORDER IS ISSUED UNDER**
15 **SUBSECTION (D)(1) OR (E)(1) OF THIS SECTION SHALL PROVIDE A COPY OF THE**
16 **ORDER TO THE BOARD OF TRUSTEES WITHIN 30 DAYS OF THE DATE THE ORDER IS**
17 **ISSUED.**

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

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2015.