

# HOUSE BILL 861

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CF SB 829

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By: **Delegate B. Barnes (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 8, 2019

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Service Credit for Unused Sick Leave**

3 FOR the purpose of making certain members of the State Retirement and Pension System  
4 eligible to receive creditable service at retirement for unused sick leave accrued by  
5 the member in certain systems in the State Retirement and Pension System under  
6 certain circumstances; providing for the calculation of the creditable service for  
7 unused sick leave accrued by certain members in certain systems; requiring a certain  
8 adjustment to a certain retirement benefit for certain retirees; and generally relating  
9 to creditable service for unused sick leave in the State Retirement and Pension  
10 System.

11 BY repealing and reenacting, with amendments,  
12 Article – State Personnel and Pensions  
13 Section 20–206  
14 Annotated Code of Maryland  
15 (2015 Replacement Volume and 2018 Supplement)

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

18 **Article – State Personnel and Pensions**

19 20–206.

20 (a) In this section, “unused sick leave” means sick leave credit that:

21 (1) has not been used before retirement; and

22 (2) was available to the member to be used as sick leave during  
23 employment.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) This section does not apply to:

2 (1) the Judges' Retirement System; or

3 (2) the Legislative Pension Plan.

4 (c) Except as provided in [subsection] **SUBSECTIONS (f) AND (G)** of this section,  
5 a member is entitled to receive creditable service for unused sick leave if the member retires  
6 on or before 30 days after the member is separated from employment with a participating  
7 employer or a participating governmental unit that has withdrawn from one of the several  
8 systems under Title 31 of this article.

9 (d) (1) At retirement, a member is entitled to receive creditable service for  
10 unused sick leave, on verification of the unused sick leave to the Board of Trustees.

11 (2) (i) This subsection does not apply to the Local Fire and Police  
12 System or the Law Enforcement Officers' Pension System.

13 (ii) A member who separates from employment for reasons other  
14 than retirement on or before June 30, 1990, is entitled to receive creditable service for  
15 unused sick leave that is reported by the member's employer at the member's separation  
16 from employment if the member was entitled to a vested allowance at the time of  
17 separation.

18 (e) (1) Subject to paragraphs (2) and (3) of this subsection, for 22 days of  
19 unused sick leave a member is entitled to receive 1 month of creditable service.

20 (2) (i) If a member has at least 11 days but less than 22 days of unused  
21 sick leave, the member is entitled to receive 1 month of creditable service.

22 (ii) If a member has at least 22 days of unused sick leave, and if  
23 fractional days totaling 11 or more result from the application of the formula described in  
24 paragraph (1) of this subsection, a member is entitled to receive 1 additional month of  
25 creditable service.

26 (3) For the purposes of this section:

27 (i) a member may not accumulate more than 15 days of sick leave  
28 per year;

29 (ii) unless sick leave credit is accepted and credited by the current  
30 participating employer, a member may not receive credit for unused sick leave granted by  
31 a former employer; and

32 (iii) in determining the amount of unused sick leave a member is  
33 eligible to use as creditable service at retirement, the Board of Trustees shall use the lesser  
34 of:

1                   1.     the member's number of years of creditable service, not  
2 including credit for unused sick leave, multiplied by 15; or

3                   2.     the member's cumulative number of unused sick leave  
4 days reported by the participating employer.

5           (f)     (1)     This subsection applies to a member of the Employees' Pension System  
6 who:

7                   (i)     was a member of the Correctional Officers' Retirement System  
8 and was transferred from the Correctional Officers' Retirement System to the Employees'  
9 Pension System as a result of a change in position with the same employer that rendered  
10 the individual ineligible for membership in the Correctional Officers' Retirement System;  
11 and

12                   (ii)    did not transfer service credit from the Correctional Officers'  
13 Retirement System to the Employees' Pension System.

14           (2)     Subject to paragraph (3) of this subsection, a member is entitled to  
15 receive creditable service for the total amount of unused sick leave accrued by the member  
16 at the time of retirement.

17           (3)     The creditable service for unused sick leave shall be calculated for each  
18 of the two State systems by multiplying the total amount of unused sick leave, calculated  
19 in accordance with subsection (e) of this section, by a fraction:

20                   (i)     the numerator of which is the creditable service earned in the  
21 State system, not including the creditable service for unused sick leave; and

22                   (ii)    the denominator of which is the total creditable service earned in  
23 both State systems, not including the creditable service for unused sick leave.

24           **(G)     (1)     THIS SUBSECTION APPLIES TO A MEMBER OF THE CORRECTIONAL**  
25 **OFFICERS' RETIREMENT SYSTEM WHO:**

26                   **(I)     WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR**  
27 **EMPLOYEES' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE**  
28 **EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM TO THE**  
29 **CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS A RESULT OF A CHANGE IN**  
30 **MEMBERSHIP WITHIN THE SEVERAL SYSTEMS THAT RENDERED THE INDIVIDUAL**  
31 **INELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM OR THE**  
32 **EMPLOYEES' RETIREMENT SYSTEM;**

33                   **(II)    DID NOT TRANSFER SERVICE CREDIT FROM THE**  
34 **EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM TO THE**

1 CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

2 (III) 1. RETIRES UNDER § 25-401 OF THIS ARTICLE, AND  
3 RECEIVES A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE  
4 EMPLOYEES' RETIREMENT SYSTEM;

5 2. RETIRES UNDER §§ 22-401, 22-402, 23-401, OR  
6 23-402 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE  
7 CORRECTIONAL OFFICERS' RETIREMENT SYSTEM FOR SERVICE EARNED ON OR  
8 AFTER JULY 1, 2016; OR

9 3. RETIRES WITH A VESTED BENEFIT FROM THE  
10 EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM, AND  
11 EARNED SERVICE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR  
12 AFTER JULY 1, 2016, FOR WHICH THE INDIVIDUAL IS NOT ELIGIBLE FOR A BENEFIT.

13 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A  
14 MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR THE TOTAL AMOUNT  
15 OF UNUSED SICK LEAVE ACCRUED BY THE MEMBER AT THE TIME OF RETIREMENT.

16 (3) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED  
17 UNDER ITEM (1)(III)1 OR 2 OF THIS SUBSECTION.

18 (II) THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE SHALL  
19 BE CALCULATED FOR EACH OF THE TWO STATE SYSTEMS BY MULTIPLYING THE  
20 TOTAL AMOUNT OF UNUSED SICK LEAVE, CALCULATED IN ACCORDANCE WITH  
21 SUBSECTION (E) OF THIS SECTION, BY A FRACTION:

22 1. THE NUMERATOR OF WHICH IS THE CREDITABLE  
23 SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE  
24 SERVICE FOR UNUSED SICK LEAVE; AND

25 2. THE DENOMINATOR OF WHICH IS THE TOTAL  
26 CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE  
27 CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

28 (4) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED  
29 UNDER ITEM (1)(III)3 OF THIS SUBSECTION.

30 (II) AN INDIVIDUAL'S RETIREMENT BENEFIT FROM THE  
31 EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM SHALL BE  
32 ADJUSTED TO INCLUDE ANY CREDIT FOR UNUSED SICK LEAVE THAT THE  
33 INDIVIDUAL ACCRUED IN THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES'

1 **RETIREMENT SYSTEM PRIOR TO BECOMING A MEMBER OF THE CORRECTIONAL**  
2 **OFFICERS' RETIREMENT SYSTEM:**

3                           1.     **ON OR AFTER JULY 1, 2016, IN A POSITION INCLUDED**  
4 **UNDER § 25-201(A)(7) OF THIS ARTICLE;**

5                           2.     **ON OR AFTER JULY 1, 2017, IN A POSITION INCLUDED**  
6 **UNDER § 25-201(A)(8) OR (9) OF THIS ARTICLE; OR**

7                           3.     **ON OR AFTER JULY 1, 2018, IN A POSITION INCLUDED**  
8 **UNDER § 25-201(A)(10) OR (11) OF THIS ARTICLE.**

9           [(g)] (H)     Credit for unused sick leave may not be used under this section:

10                   (1)     to determine years of eligibility service required for a benefit under this  
11 Division II; or

12                   (2)     to compute average final compensation.

13           [(h)] (I)     A State employee who came into the State system while retaining sick  
14 leave and annual leave benefits under a county system and who came under the provisions  
15 of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement  
16 as provided by this section.

17           SECTION 2. AND BE IT FURTHER ENACTED, That:

18           (a)     This section applies to an individual who:

19                   (1)     retired from a position:

20                           (i)     affected by Chapter 218 or 219 of the Acts of the General  
21 Assembly of 2016 and did not transfer service credit from the Employees' Pension System  
22 or Employees' Retirement System to the Correctional Officers' Retirement System prior to  
23 retirement;

24                           (ii)    affected by Chapter 688, 689, or 690 of the Acts of the General  
25 Assembly of 2017 and did not transfer service credit from the Employees' Pension System  
26 or Employees' Retirement System to the Correctional Officers' Retirement System prior to  
27 retirement; or

28                           (iii)  affected by Chapter 579 or 580 of the Acts of the General  
29 Assembly of 2018 and did not transfer service credit from the Employees' Pension System  
30 or Employees' Retirement System to the Correctional Officers' Retirement System prior to  
31 retirement; and

32                   (2)     retired from the Employees' Pension System before July 1, 2019, and

1 was not eligible for a vested benefit from the Correctional Officers' Retirement System at  
2 the time of retirement.

3 (b) An individual described under subsection (a) of this section shall have the  
4 individual's retirement benefit from the Employees' Pension System or Employees'  
5 Retirement System adjusted to include any credit for unused sick leave that the individual  
6 accrued in the Employees' Pension System or Employees' Retirement System prior to  
7 becoming a member of the Correctional Officers' Retirement System, subject to the  
8 restrictions of § 20–206(e) of the State Personnel and Pensions Article.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
10 1, 2019.