

HOUSE BILL 123

P6

(PRE-FILED)

2lr0511
CF 2lr1098

By: **Delegates Wilkins, W. Fisher, Amprey, Atterbeary, Charkoudian, Cullison, Ebersole, Feldmark, Ivey, R. Lewis, Lopez, Moon, Ruth, Shetty, Smith, Solomon, Valderrama, and Williams**

Requested: September 20, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Pensions and Retirement – Forfeiture of Benefits – Law Enforcement Officers**

3 FOR the purpose of establishing that law enforcement officers are subject to forfeiture of
4 benefits from the State Retirement and Pension System or a local system when a law
5 enforcement officer is found guilty of, pleads guilty to, or enters a plea of nolo
6 contendere to a qualifying crime; providing for the processes and procedures to
7 implement a forfeiture of benefits; and generally relating to the forfeiture of pension
8 benefits.

9 BY adding to

10 Article – State Personnel and Pensions

11 Section 21–801 to be under the new subtitle “Subtitle 8. Forfeiture of Benefits – Law
12 Enforcement Officers”

13 Annotated Code of Maryland

14 (2015 Replacement Volume and 2021 Supplement)

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

17 **Article – State Personnel and Pensions**

18 **SUBTITLE 8. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.**

19 **21–801.**

20 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “ACCUMULATED CONTRIBUTIONS” MEANS THE AMOUNTS**
2 **CREDITED, INCLUDING INTEREST, TO A LAW ENFORCEMENT OFFICER’S INDIVIDUAL**
3 **ACCOUNT IN THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT**
4 **OFFICERS’ PENSION SYSTEM, OR A LOCAL PENSION SYSTEM.**

5 **(3) “FINAL ADJUDICATION” MEANS FINAL DISPOSITION OF ALL**
6 **CHARGES THAT CONSTITUTE A QUALIFYING CRIME FROM WHICH NO FURTHER**
7 **RIGHT TO APPEAL OR REVIEW EXISTS.**

8 **(4) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO IS A**
9 **MEMBER, FORMER MEMBER, OR RETIREE OF:**

10 **(I) THE STATE POLICE RETIREMENT SYSTEM;**

11 **(II) THE LAW ENFORCEMENT OFFICERS’ PENSION SYSTEM; OR**

12 **(III) A LOCAL PENSION SYSTEM FOR AN INDIVIDUAL EMPLOYED**
13 **AS A SWORN LAW ENFORCEMENT OFFICER.**

14 **(5) “QUALIFYING CRIME” MEANS ANY OF THE FOLLOWING CRIMINAL**
15 **OFFENSES THAT WERE COMMITTED IN THE COURSE OF THE PERFORMANCE OF A**
16 **LAW ENFORCEMENT OFFICER’S DUTIES:**

17 **(I) A FELONY; OR**

18 **(II) PERJURY OR ANOTHER MISDEMEANOR RELATING TO**
19 **TRUTHFULNESS AND VERACITY.**

20 **(B) THIS SECTION DOES NOT APPLY TO:**

21 **(1) ACCUMULATED CONTRIBUTIONS MADE BEFORE JULY 1, 2022;**

22 **(2) ANY SERVICE EARNED BEFORE JULY 1, 2022; OR**

23 **(3) A QUALIFYING CRIME COMMITTED BEFORE JULY 1, 2022.**

24 **(C) BENEFITS UNDER THIS DIVISION II OF THIS ARTICLE OR A LOCAL**
25 **PENSION SYSTEM PAYABLE TO A LAW ENFORCEMENT OFFICER ARE SUBJECT TO**
26 **FORFEITURE IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SECTION IF THE LAW**
27 **ENFORCEMENT OFFICER IS FOUND GUILTY OF, PLEADS GUILTY TO, OR ENTERS A**
28 **PLEA OF NOLO CONTENDERE TO A QUALIFYING CRIME.**

1 (D) (1) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN
2 CONVICTION OF A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT
3 OFFICER'S RETIREMENT ALLOWANCE MAY BE FORFEITED IN WHOLE OR IN PART IN
4 ACCORDANCE WITH THIS SECTION.

5 (2) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE
6 ATTORNEY GENERAL OR THE STATE'S ATTORNEY SHALL FILE A COMPLAINT IN
7 CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER'S BENEFITS IN
8 WHOLE OR IN PART.

9 (E) THE COURT MAY ENTER AN ORDER REQUIRING THE FORFEITURE, IN
10 WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT
11 FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

12 (1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A
13 QUALIFYING CRIME;

14 (2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE STATE
15 POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION
16 SYSTEM, OR A LOCAL PENSION SYSTEM; AND

17 (3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT
18 OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT
19 OFFICER WAS AN ACTIVE MEMBER OF THE STATE POLICE RETIREMENT SYSTEM,
20 THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR A LOCAL PENSION
21 SYSTEM.

22 (F) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL
23 INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.

24 (2) WHEN DETERMINING THE AMOUNT OF BENEFITS TO BE
25 FORFEITED, THE COURT SHALL CONSIDER:

26 (I) THE SEVERITY OF THE CRIME;

27 (II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE
28 STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE
29 CRIME;

30 (III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW
31 ENFORCEMENT OFFICER; AND

32 (IV) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

1 **(G) A COURT MAY ORDER A LAW ENFORCEMENT OFFICER SUBJECT TO A**
2 **FORFEITURE ORDER ISSUED UNDER THIS SECTION TO REQUEST A RETURN OF THE**
3 **LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS, IN WHOLE OR IN**
4 **PART, TO BE USED FOR RESTITUTION RELATING TO A QUALIFYING CRIME.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2022.