

SENATE BILL 47

P6

2lr0376

(PRE-FILED)

By: **Senator Carter**

Requested: August 10, 2021

Introduced and read first time: January 12, 2022

Assigned to: Budget and Taxation

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; providing for the processes and procedures to
8 reverse a forfeiture of benefits; and generally relating to the forfeiture of pension
9 benefits.

10 BY repealing and reenacting, with amendments,
11 Article – State Personnel and Pensions
12 Section 21–502(a)(3)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – State Personnel and Pensions
17 Section 21–801 through 21–809 to be under the new subtitle “Subtitle 8. Forfeiture
18 of Benefits – Law Enforcement Officers”; and 40–201 through 40–209 to be
19 under the new subtitle “Subtitle 2. Forfeiture of Benefits – Law Enforcement
20 Officers”
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2021 Supplement)

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

25 **Article – State Personnel and Pensions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 21-502.

2 (a) (3) A court of competent jurisdiction may expressly order that a benefit
3 under this Division II be assigned to a spouse, former spouse, child, or other dependent
4 when an order of benefit forfeiture is issued in accordance with § 21-704 OR § 21-804 of
5 this title.

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

7 **21-801.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) “DOMESTIC RELATIONS ORDER” MEANS AN ORDER ISSUED IN
11 ACCORDANCE WITH § 21-502(A)(2) OF THIS TITLE, § 414(P) OF THE INTERNAL
12 REVENUE CODE, AND REGULATIONS ADOPTED BY THE BOARD OF TRUSTEES THAT
13 ASSIGNS A BENEFIT TO A SPOUSE, A FORMER SPOUSE, A CHILD, OR ANY OTHER
14 DEPENDENT OF A LAW ENFORCEMENT OFFICER IN CONNECTION WITH A DECREE OR
15 ORDER OF ALIMONY, CHILD SUPPORT, OR DIVORCE.

16 (C) “FINAL ADJUDICATION” MEANS ADJUDICATION BY A TRIAL COURT
17 RESULTING IN FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A
18 QUALIFYING CRIME.

19 (D) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO:

20 (1) IS LISTED IN § 21-802 OF THIS SUBTITLE; AND

21 (2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

22 (E) “QUALIFYING CRIME” MEANS A CRIMINAL OFFENSE THAT IS
23 COMMITTED IN THE COURSE OF THE PERFORMANCE OF THE LAW ENFORCEMENT
24 OFFICER’S DUTIES AND RESPONSIBILITIES THAT IS:

25 (1) A FELONY;

26 (2) PERJURY; OR

27 (3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

28 (F) “RETIREMENT ALLOWANCE”:

29 (1) HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE; AND

1 **(2) INCLUDES A VESTED ALLOWANCE.**

2 **(G) “VESTED ALLOWANCE” HAS THE MEANING STATED IN § 20–101 OF THIS**
3 **ARTICLE.**

4 **21–802.**

5 **(A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:**

6 **(1) IS A MEMBER, FORMER MEMBER, OR RETIREE OF:**

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

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

9 **(III) THE EMPLOYEES’ PENSION SYSTEM OR THE EMPLOYEES’**
10 **RETIREMENT SYSTEM; AND**

11 **(2) HAS EARNED CREDITABLE SERVICE WHILE EMPLOYED AS A LAW**
12 **ENFORCEMENT OFFICER.**

13 **(B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE**
14 **JULY 1, 2022.**

15 **21–803.**

16 **(A) BENEFITS UNDER THIS DIVISION II OF THIS ARTICLE PAYABLE TO A**
17 **LAW ENFORCEMENT OFFICER ARE SUBJECT TO FORFEITURE IN WHOLE OR IN PART**
18 **IN ACCORDANCE WITH THIS SUBTITLE IF THE LAW ENFORCEMENT OFFICER IS**
19 **FOUND GUILTY OF, PLEADS GUILTY TO, OR ENTERS A PLEA OF NOLO CONTENDERE**
20 **TO A QUALIFYING CRIME.**

21 **(B) (1) BENEFITS UNDER THIS DIVISION II MAY NOT BE FORFEITED OR**
22 **REDUCED IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE**
23 **FORFEITURE OR REDUCTION WILL NEGATIVELY AFFECT OR INVALIDATE THE TAX**
24 **QUALIFIED STATUS OF ANY OF THE SEVERAL SYSTEMS.**

25 **(2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE**
26 **APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE**
27 **TAX QUALIFIED STATUS OF ANY OF THE SEVERAL SYSTEMS, ANY FORFEITURE OF**
28 **BENEFITS THAT TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE’S**

1 DETERMINATION SHALL BE REVERSED IN ACCORDANCE WITH § 21-807 OF THIS
2 SUBTITLE TO THE EXTENT NECESSARY TO COMPLY WITH THE DETERMINATION.

3 21-804.

4 (A) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN CONVICTION OF
5 A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER'S RETIREMENT
6 ALLOWANCE SHALL BE FORFEITED IN WHOLE OR IN PART IN ACCORDANCE WITH
7 THIS SECTION.

8 (B) (1) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE
9 ATTORNEY GENERAL OR THE STATE'S ATTORNEY SHALL FILE A COMPLAINT IN
10 CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER'S BENEFITS IN
11 WHOLE OR IN PART.

12 (2) NOTICE OF THE COMPLAINT FILED UNDER PARAGRAPH (1) OF
13 THIS SUBSECTION SHALL BE SERVED ON:

14 (I) THE LAW ENFORCEMENT OFFICER;

15 (II) ANY KNOWN SPOUSE OF THE LAW ENFORCEMENT OFFICER;

16 (III) ANY KNOWN DEPENDENTS OF THE LAW ENFORCEMENT
17 OFFICER;

18 (IV) THE LAW ENFORCEMENT OFFICER'S DESIGNATED
19 BENEFICIARIES;

20 (V) ANY FORMER SPOUSE WHO HAS BEEN ASSIGNED BENEFITS
21 UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

22 (VI) THE STATE RETIREMENT AGENCY.

23 (3) NOTWITHSTANDING § 4-312 OF THE GENERAL PROVISIONS
24 ARTICLE, ON WRITTEN REQUEST, THE STATE RETIREMENT AGENCY SHALL
25 PROVIDE THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WITH AVAILABLE
26 INFORMATION FROM THE RETIREMENT RECORDS OF THE LAW ENFORCEMENT
27 OFFICER TO ASSIST THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY IN
28 PROVIDING THE NOTICE REQUIRED UNDER THIS SUBSECTION.

29 (C) THE COURT SHALL ENTER AN ORDER REQUIRING THE FORFEITURE, IN
30 WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT
31 FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

1 **(1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A**
2 **QUALIFYING CRIME;**

3 **(2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE STATE**
4 **POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION**
5 **SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES' RETIREMENT**
6 **SYSTEM; AND**

7 **(3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT**
8 **OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT**
9 **OFFICER WAS AN ACTIVE MEMBER OF THE STATE POLICE RETIREMENT SYSTEM,**
10 **THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, THE EMPLOYEES' PENSION**
11 **SYSTEM, OR THE EMPLOYEES' RETIREMENT SYSTEM.**

12 **(D) ONLY SERVICE CREDIT IN THE STATE SYSTEM IN WHICH THE LAW**
13 **ENFORCEMENT OFFICER IS A MEMBER WHEN THE QUALIFYING CRIME IS**
14 **COMMITTED IS ELIGIBLE FOR FORFEITURE UNDER THIS SECTION.**

15 **(E) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL**
16 **INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.**

17 **(2) WHEN DETERMINING THE AMOUNT OF BENEFITS TO BE**
18 **FORFEITED, THE COURT SHALL CONSIDER:**

19 **(I) THE SEVERITY OF THE CRIME;**

20 **(II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE**
21 **STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE**
22 **CRIME;**

23 **(III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW**
24 **ENFORCEMENT OFFICER;**

25 **(IV) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW**
26 **ENFORCEMENT OFFICER;**

27 **(V) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW**
28 **ENFORCEMENT OFFICER'S SPOUSE, CHILDREN, OR OTHER DEPENDENTS;**

29 **(VI) ANY INTEREST IN BENEFITS OF A FORMER SPOUSE**
30 **ESTABLISHED UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND**

31 **(VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.**

1 **(F) (1) IF THE COURT ENTERS AN ORDER REQUIRING THE FORFEITURE**
2 **OF BENEFITS, THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT**
3 **PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE PAID TO A SPOUSE,**
4 **A FORMER SPOUSE, A CHILD, OR ANY OTHER DEPENDENT FOR PURPOSES OF CHILD**
5 **SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.**

6 **(2) WHEN DETERMINING WHETHER TO ENTER A DOMESTIC**
7 **RELATIONS ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL**
8 **CONSIDER WHETHER THE LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER**
9 **SPOUSE, CHILDREN, OR DEPENDENTS WERE CULPABLE OR COMPLICIT IN THE**
10 **COMMISSION OF THE QUALIFYING CRIME.**

11 **(3) THE COURT MAY NOT ORDER BENEFITS TO BE PAID TO A LAW**
12 **ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILD, OR OTHER**
13 **DEPENDENT IN A MANNER THAT IS INCONSISTENT WITH THE PAYMENT OF BENEFITS**
14 **IN THE STATE SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER WAS A MEMBER.**

15 **(G) (1) AN ORDER REQUIRING A FORFEITURE OF BENEFITS ISSUED**
16 **UNDER THIS SECTION MAY NOT IMPAIR OR ALTER AN EXISTING DOMESTIC**
17 **RELATIONS ORDER PROVIDING BENEFITS TO A FORMER SPOUSE OF A LAW**
18 **ENFORCEMENT OFFICER.**

19 **(2) A LAW ENFORCEMENT OFFICER'S INTEREST IN A BENEFIT OF A**
20 **FORMER SPOUSE ESTABLISHED BY A DOMESTIC RELATIONS ORDER MAY NOT BE**
21 **SUBJECT TO A FORFEITURE OR REDUCTION UNDER THIS SUBTITLE.**

22 **(H) BENEFITS AVAILABLE TO A LAW ENFORCEMENT OFFICER AS A**
23 **BENEFICIARY MAY NOT BE SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE.**

24 **21-805.**

25 **(A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE A FORFEITURE**
26 **ORDER IS ISSUED UNDER § 21-804 OF THIS SUBTITLE, THE BOARD OF TRUSTEES**
27 **MAY RECOVER FROM THE LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS**
28 **PAID TO THE LAW ENFORCEMENT OFFICER BEFORE THE ORDER.**

29 **(B) THE RECOVERY UNDER SUBSECTION (A) OF THIS SECTION IS LIMITED**
30 **TO AN AMOUNT EQUAL TO THE BENEFITS THAT WOULD HAVE BEEN FORFEITED HAD**
31 **THE FORFEITURE ORDER BEEN ISSUED BEFORE THE LAW ENFORCEMENT OFFICER**
32 **BEGAN RECEIVING ANY BENEFITS AS A RETIREE.**

33 **21-806.**

1 **(A) THIS SECTION APPLIES TO A LAW ENFORCEMENT OFFICER WHO IS NOT**
2 **A RETIREE.**

3 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LAW ENFORCEMENT**
4 **OFFICER MAY SUBMIT AN APPLICATION FOR RETIREMENT.**

5 **(C) IF A LAW ENFORCEMENT OFFICER IS ELIGIBLE TO APPLY FOR A**
6 **RETIREMENT ALLOWANCE, A LAW ENFORCEMENT OFFICER'S APPLICATION FOR**
7 **RETIREMENT BENEFITS:**

8 **(1) SHALL BE CONSIDERED SUBMITTED ON THE FIRST DAY OF THE**
9 **MONTH AFTER IT IS PROPERLY COMPLETED AND SUBMITTED TO THE STATE**
10 **RETIREMENT AGENCY; AND**

11 **(2) MAY NOT BE PROCESSED BY THE STATE RETIREMENT AGENCY**
12 **UNLESS AND UNTIL THE FINAL ADJUDICATION OF THE CHARGE DOES NOT RESULT**
13 **IN CONVICTION.**

14 **21-807.**

15 **(A) (1) ON RECEIPT OF AN ORDER THAT REVERSES OR OVERTURNS A**
16 **CONVICTION OF A LAW ENFORCEMENT OFFICER, THE COURT THAT ISSUED A**
17 **FORFEITURE ORDER UNDER § 21-804 OF THIS SUBTITLE SHALL RESCIND THE**
18 **FORFEITURE ORDER AND ORDER THE BOARD OF TRUSTEES TO PAY ANY BENEFITS**
19 **THAT ARE PAYABLE UNDER THIS DIVISION II OF THIS ARTICLE TO THE LAW**
20 **ENFORCEMENT OFFICER.**

21 **(2) WHEN A COURT RESCINDS A FORFEITURE ORDER UNDER**
22 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL ALSO RESCIND ANY**
23 **DOMESTIC RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 21-804(F) OF THIS**
24 **SUBTITLE.**

25 **(B) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS A**
26 **RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED:**

27 **(1) THE LAW ENFORCEMENT OFFICER'S BENEFITS SHALL BE**
28 **RESTORED BACK TO THE DATE THE BENEFIT PAYMENTS CEASED;**

29 **(2) THE LAW ENFORCEMENT OFFICER'S ALLOWANCE SHALL:**

30 **(I) BE PAID BEGINNING THE MONTH AFTER THE STATE**
31 **RETIREMENT AGENCY IS NOTIFIED THAT THE CONVICTION IS OVERTURNED; AND**

1 **(II) INCLUDE ANY COST-OF-LIVING ADJUSTMENTS THAT**
2 **WOULD HAVE BEEN MADE IN THE TIME BETWEEN THE CONVICTION AND THE TIME**
3 **BENEFIT PAYMENTS ARE RESTORED; AND**

4 **(3) BENEFIT PAYMENTS THAT WOULD HAVE BEEN MADE DURING THE**
5 **TIME FROM THE DATE OF CONVICTION TO THE DATE THE CONVICTION IS**
6 **OVERTURNED SHALL BE MADE TO THE LAW ENFORCEMENT OFFICER, LESS ANY**
7 **PAYMENTS MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS ORDER DIRECTING**
8 **PAYMENT OF BENEFITS TO A SPOUSE, A FORMER SPOUSE, A CHILD, OR ANY OTHER**
9 **DEPENDENT.**

10 **(C) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS NOT A**
11 **RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED, THE LAW**
12 **ENFORCEMENT OFFICER MAY RECEIVE BENEFITS IN ACCORDANCE WITH THIS**
13 **DIVISION II OF THIS ARTICLE.**

14 **21-808.**

15 **(A) A LAW ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE ORDER**
16 **ISSUED UNDER § 21-804 OF THIS SUBTITLE IS ENTITLED TO A RETURN OF THE**
17 **INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON REQUEST UNDER § 29-501 OF**
18 **THIS ARTICLE.**

19 **(B) THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS**
20 **SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY BENEFIT PAYMENTS RECEIVED**
21 **BY THE LAW ENFORCEMENT OFFICER THAT WOULD HAVE BEEN SUBJECT TO**
22 **FORFEITURE AND HAVE NOT BEEN RECOVERED BY THE BOARD OF TRUSTEES**
23 **UNDER § 21-805 OF THIS SUBTITLE.**

24 **21-809.**

25 **THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
26 **SUBTITLE.**

27 **SUBTITLE 2. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.**

28 **40-201.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
30 **INDICATED.**

31 **(B) "ACCUMULATED CONTRIBUTIONS", WHEN USED IN RELATION TO A**
32 **LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING**
33 **STATED IN § 20-101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.**

1 (C) “DOMESTIC RELATIONS ORDER” MEANS AN ORDER ISSUED IN
2 ACCORDANCE WITH § 414(P) OF THE INTERNAL REVENUE CODE AND PROVISIONS
3 ADOPTED BY THE LOCAL SYSTEM THAT ASSIGNS A BENEFIT TO A SPOUSE, A FORMER
4 SPOUSE, A CHILD, OR ANY OTHER DEPENDENT OF A LAW ENFORCEMENT OFFICER IN
5 CONNECTION WITH A DECREE OR ORDER OF ALIMONY, CHILD SUPPORT, OR
6 DIVORCE.

7 (D) “FINAL ADJUDICATION” MEANS ADJUDICATION BY A TRIAL COURT
8 RESULTING IN FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A
9 QUALIFYING CRIME.

10 (E) “FORMER MEMBER”, WHEN USED IN RELATION TO A LOCAL SYSTEM,
11 HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN §
12 20-101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

13 (F) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO:

14 (1) IS LISTED IN § 40-202 OF THIS SUBTITLE; AND

15 (2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

16 (G) “LOCAL SYSTEM” MEANS A RETIREMENT OR PENSION SYSTEM
17 OPERATED FOR THE BENEFIT OF EMPLOYEES OF A POLITICAL SUBDIVISION OF THE
18 STATE.

19 (H) “MEMBER”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE
20 MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20-101 OF THIS
21 ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

22 (I) “QUALIFYING CRIME” MEANS A CRIMINAL OFFENSE THAT IS
23 COMMITTED IN THE COURSE OF THE PERFORMANCE OF THE LAW ENFORCEMENT
24 OFFICER’S DUTIES AND RESPONSIBILITIES THAT IS:

25 (1) A FELONY;

26 (2) PERJURY; OR

27 (3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

28 (J) “RETIREE”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE
29 MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20-101 OF THIS
30 ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

1 (K) "RETIREMENT ALLOWANCE":

2 (1) WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING
3 MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20-101 OF THIS ARTICLE
4 WITHIN THE CONTEXT OF THE LOCAL SYSTEM; AND

5 (2) INCLUDES A VESTED ALLOWANCE.

6 (L) "VESTED ALLOWANCE", WHEN USED IN RELATION TO A LOCAL SYSTEM,
7 HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN §
8 20-101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

9 40-202.

10 (A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:

11 (1) IS A MEMBER, FORMER MEMBER, OR RETIREE OF A LOCAL
12 SYSTEM; AND

13 (2) HAS EARNED CREDITABLE SERVICE WHILE EMPLOYED AS A LAW
14 ENFORCEMENT OFFICER.

15 (B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE
16 JULY 1, 2022.

17 40-203.

18 (A) BENEFITS PAYABLE TO A LAW ENFORCEMENT OFFICER AS A RETIREE OF
19 A LOCAL SYSTEM ARE SUBJECT TO FORFEITURE IN WHOLE OR IN PART IN
20 ACCORDANCE WITH THIS SUBTITLE IF THE LAW ENFORCEMENT OFFICER IS FOUND
21 GUILTY OF, PLEADS GUILTY TO, OR ENTERS A PLEA OF NOLO CONTENDERE TO A
22 QUALIFYING CRIME.

23 (B) (1) BENEFITS PAYABLE TO A LAW ENFORCEMENT OFFICER AS A
24 RETIREE OF A LOCAL SYSTEM MAY NOT BE FORFEITED OR REDUCED IF THE
25 INTERNAL REVENUE SERVICE DETERMINES THAT THE FORFEITURE OR REDUCTION
26 WILL NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF THE
27 LOCAL SYSTEM.

28 (2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE
29 APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE
30 TAX QUALIFIED STATUS OF A LOCAL SYSTEM, ANY FORFEITURE OF BENEFITS THAT

1 TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE'S DETERMINATION SHALL
2 BE REVERSED IN ACCORDANCE WITH § 40-207 OF THIS SUBTITLE TO THE EXTENT
3 NECESSARY TO COMPLY WITH THE DETERMINATION.

4 (C) A COURT OF COMPETENT JURISDICTION MAY EXPRESSLY ORDER THAT
5 A BENEFIT UNDER A LOCAL SYSTEM BE ASSIGNED TO A SPOUSE, A FORMER SPOUSE,
6 A CHILD, OR ANY OTHER DEPENDENT WHEN AN ORDER OF BENEFIT FORFEITURE IS
7 ISSUED IN ACCORDANCE WITH § 40-204 OF THIS SUBTITLE.

8 **40-204.**

9 (A) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN CONVICTION OF
10 A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER'S RETIREMENT
11 ALLOWANCE SHALL BE FORFEITED IN WHOLE OR IN PART IN ACCORDANCE WITH
12 THIS SECTION.

13 (B) (1) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE
14 ATTORNEY GENERAL OR THE STATE'S ATTORNEY SHALL FILE A COMPLAINT IN
15 CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER'S BENEFITS IN
16 WHOLE OR IN PART.

17 (2) NOTICE OF THE COMPLAINT FILED UNDER PARAGRAPH (1) OF
18 THIS SUBSECTION SHALL BE SERVED ON:

19 (I) THE LAW ENFORCEMENT OFFICER;

20 (II) ANY KNOWN SPOUSE OF THE LAW ENFORCEMENT OFFICER;

21 (III) ANY KNOWN DEPENDENTS OF THE LAW ENFORCEMENT
22 OFFICER;

23 (IV) THE LAW ENFORCEMENT OFFICER'S DESIGNATED
24 BENEFICIARIES;

25 (V) ANY FORMER SPOUSE WHO HAS BEEN ASSIGNED BENEFITS
26 UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

27 (VI) THE LOCAL SYSTEM.

28 (3) NOTWITHSTANDING § 4-312 OF THE GENERAL PROVISIONS
29 ARTICLE, ON WRITTEN REQUEST, THE LOCAL SYSTEM SHALL PROVIDE THE
30 ATTORNEY GENERAL OR THE STATE'S ATTORNEY WITH AVAILABLE INFORMATION
31 FROM THE RETIREMENT RECORDS OF THE LAW ENFORCEMENT OFFICER TO ASSIST

1 THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY IN PROVIDING THE NOTICE
2 REQUIRED UNDER THIS SUBSECTION.

3 (C) THE COURT SHALL ENTER AN ORDER REQUIRING THE FORFEITURE, IN
4 WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT
5 FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

6 (1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A
7 QUALIFYING CRIME;

8 (2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE LOCAL
9 SYSTEM; AND

10 (3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT
11 OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT
12 OFFICER WAS AN ACTIVE MEMBER OF THE LOCAL SYSTEM.

13 (D) ONLY SERVICE CREDIT IN THE LOCAL SYSTEM IN WHICH THE LAW
14 ENFORCEMENT OFFICER IS A MEMBER WHEN THE QUALIFYING CRIME IS
15 COMMITTED IS ELIGIBLE FOR FORFEITURE UNDER THIS SECTION.

16 (E) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL
17 INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.

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

20 (I) THE SEVERITY OF THE CRIME;

21 (II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE
22 STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE
23 CRIME;

24 (III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW
25 ENFORCEMENT OFFICER;

26 (IV) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW
27 ENFORCEMENT OFFICER;

28 (V) THE FINANCIAL NEEDS AND RESOURCES OF THE LAW
29 ENFORCEMENT OFFICER'S SPOUSE, CHILDREN, OR OTHER DEPENDENTS;

30 (VI) ANY INTEREST IN BENEFITS OF A FORMER SPOUSE
31 ESTABLISHED UNDER AN EXISTING DOMESTIC RELATIONS ORDER; AND

1 (VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

2 (F) (1) IF THE COURT ENTERS AN ORDER REQUIRING THE FORFEITURE
3 OF BENEFITS, THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT
4 PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE PAID TO A SPOUSE,
5 A FORMER SPOUSE, A CHILD, OR ANY OTHER DEPENDENT FOR PURPOSES OF CHILD
6 SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.

7 (2) WHEN DETERMINING WHETHER TO ENTER A DOMESTIC
8 RELATIONS ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL
9 CONSIDER WHETHER THE LAW ENFORCEMENT OFFICER'S SPOUSE, FORMER
10 SPOUSE, CHILDREN, OR DEPENDENTS WERE CULPABLE OR COMPLICIT IN THE
11 COMMISSION OF THE QUALIFYING CRIME.

12 (3) THE COURT MAY NOT ORDER BENEFITS TO BE PAID TO A LAW
13 ENFORCEMENT OFFICER'S SPOUSE, FORMER SPOUSE, CHILD, OR OTHER
14 DEPENDENT IN A MANNER THAT IS INCONSISTENT WITH THE PAYMENT OF BENEFITS
15 IN THE LOCAL SYSTEM IN WHICH THE LAW ENFORCEMENT OFFICER WAS A MEMBER.

16 (G) (1) AN ORDER REQUIRING A FORFEITURE OF BENEFITS ISSUED
17 UNDER THIS SECTION MAY NOT IMPAIR OR ALTER AN EXISTING DOMESTIC
18 RELATIONS ORDER PROVIDING BENEFITS TO A FORMER SPOUSE OF A LAW
19 ENFORCEMENT OFFICER.

20 (2) A LAW ENFORCEMENT OFFICER'S INTEREST IN A BENEFIT OF A
21 FORMER SPOUSE ESTABLISHED BY A DOMESTIC RELATIONS ORDER MAY NOT BE
22 SUBJECT TO A FORFEITURE OR REDUCTION UNDER THIS SUBTITLE.

23 (H) BENEFITS AVAILABLE TO A LAW ENFORCEMENT OFFICER AS A
24 BENEFICIARY MAY NOT BE SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE.

25 40-205.

26 (A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE A FORFEITURE
27 ORDER IS ISSUED UNDER § 40-204 OF THIS SUBTITLE, THE LOCAL SYSTEM MAY
28 RECOVER FROM THE LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS PAID
29 TO THE LAW ENFORCEMENT OFFICER BEFORE THE ORDER.

30 (B) THE RECOVERY UNDER SUBSECTION (A) OF THIS SECTION IS LIMITED
31 TO AN AMOUNT EQUAL TO THE BENEFITS THAT WOULD HAVE BEEN FORFEITED HAD
32 THE FORFEITURE ORDER BEEN ISSUED BEFORE THE LAW ENFORCEMENT OFFICER
33 BEGAN RECEIVING ANY BENEFITS AS A RETIREE.

1 **40-206.**

2 (A) THIS SECTION APPLIES TO A LAW ENFORCEMENT OFFICER WHO IS NOT
3 A RETIREE.

4 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LAW ENFORCEMENT
5 OFFICER MAY SUBMIT AN APPLICATION FOR RETIREMENT.

6 (C) IF A LAW ENFORCEMENT OFFICER IS ELIGIBLE TO APPLY FOR A
7 RETIREMENT ALLOWANCE, A LAW ENFORCEMENT OFFICER'S APPLICATION FOR
8 RETIREMENT BENEFITS:

9 (1) SHALL BE CONSIDERED SUBMITTED ON THE FIRST DAY OF THE
10 MONTH AFTER IT IS PROPERLY COMPLETED AND SUBMITTED TO THE LOCAL
11 SYSTEM; AND

12 (2) MAY NOT BE PROCESSED BY THE LOCAL SYSTEM UNLESS AND
13 UNTIL THE FINAL ADJUDICATION OF THE CHARGE DOES NOT RESULT IN
14 CONVICTION.

15 **40-207.**

16 (A) (1) ON RECEIPT OF AN ORDER THAT REVERSES OR OVERTURNS A
17 CONVICTION OF A LAW ENFORCEMENT OFFICER, THE COURT THAT ISSUED A
18 FORFEITURE ORDER UNDER § 40-204 OF THIS SUBTITLE SHALL RESCIND THE
19 FORFEITURE ORDER AND ORDER THE LOCAL SYSTEM TO PAY ANY BENEFITS THAT
20 ARE PAYABLE TO THE LAW ENFORCEMENT OFFICER UNDER THE PROVISIONS OF THE
21 LOCAL SYSTEM.

22 (2) WHEN A COURT RESCINDS A FORFEITURE ORDER UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL ALSO RESCIND ANY
24 DOMESTIC RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 40-204(F) OF THIS
25 SUBTITLE.

26 (B) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS A
27 RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED:

28 (1) THE LAW ENFORCEMENT OFFICER'S BENEFITS SHALL BE
29 RESTORED BACK TO THE DATE THE BENEFIT PAYMENTS CEASED;

30 (2) THE LAW ENFORCEMENT OFFICER'S ALLOWANCE SHALL:

1 **(I) BE PAID BEGINNING THE MONTH AFTER THE LOCAL SYSTEM**
2 **IS NOTIFIED THAT THE CONVICTION IS OVERTURNED; AND**

3 **(II) INCLUDE ANY COST-OF-LIVING ADJUSTMENTS THAT**
4 **WOULD HAVE BEEN MADE IN THE TIME BETWEEN THE CONVICTION AND THE TIME**
5 **BENEFIT PAYMENTS ARE RESTORED; AND**

6 **(3) BENEFIT PAYMENTS THAT WOULD HAVE BEEN MADE DURING THE**
7 **TIME FROM THE DATE OF CONVICTION TO THE DATE THE CONVICTION IS**
8 **OVERTURNED SHALL BE MADE TO THE LAW ENFORCEMENT OFFICER, LESS ANY**
9 **PAYMENTS MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS ORDER DIRECTING**
10 **PAYMENT OF BENEFITS TO A SPOUSE, A FORMER SPOUSE, A CHILD, OR ANY OTHER**
11 **DEPENDENT.**

12 **(C) IF A CONVICTION OF A LAW ENFORCEMENT OFFICER WHO WAS NOT A**
13 **RETIREE BEFORE THE DATE OF CONVICTION IS OVERTURNED, THE LAW**
14 **ENFORCEMENT OFFICER MAY RECEIVE BENEFITS IN ACCORDANCE WITH THE**
15 **PROVISIONS OF THE LOCAL SYSTEM.**

16 **40-208.**

17 **(A) A LAW ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE ORDER**
18 **ISSUED UNDER § 40-204 OF THIS SUBTITLE IS ENTITLED TO A RETURN OF THE**
19 **INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON REQUEST AS PROVIDED BY THE**
20 **LOCAL SYSTEM.**

21 **(B) THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS**
22 **SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY BENEFIT PAYMENTS RECEIVED**
23 **BY THE LAW ENFORCEMENT OFFICER THAT WOULD HAVE BEEN SUBJECT TO**
24 **FORFEITURE AND HAVE NOT BEEN RECOVERED BY THE LOCAL SYSTEM UNDER §**
25 **40-205 OF THIS SUBTITLE.**

26 **40-209.**

27 **A LOCAL SYSTEM SHALL ADOPT POLICIES AND PROCEDURES TO IMPLEMENT**
28 **THIS SUBTITLE.**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
30 **1, 2022.**