



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB 9: State Retirement and Pension System – Forfeiture of Benefits

Position: FAVORABLE

Good afternoon Mr. Chair, Mr. Vice Chair, and esteemed members of the Appropriations Committee. My name is Delegate Brian Crosby, and I am here to present HB 9: State Retirement and Pension System – Forfeiture of Benefits, and to respectfully ask for your favorable report.

This bill will apply to all members, former members, and retirees of the State Police Retirement System, the Law Enforcement Officers' Pension System, the Employees' Pension System, the Employees' Retirement System, the Teachers' Pension System, the Teachers' Retirement System, the Correctional Officers' Retirement System, and the Judges' Retirement System.

Members, former members, and retirees of the aforementioned systems will have their benefits subject to forfeiture if they are found guilty of, plead guilty to, or enter a plea or *nolo contendere* (accepting a conviction without admitting guilt) to the following crimes: rape in the first degree, rape in the second degree, attempted rape in the first degree, or attempted rape in the second degree. Crucially, this bill will only apply if the crime is committed while the public employee was in the course of fulfilling their public duties. Their original contributions plus interest would be returned to them.

The crime must have been committed while the public employee was an active member of their retirement or pension system. Furthermore, only the service credit in the system in which the public employee was a member of at the time they committed the crime is eligible for forfeiture.

To avoid running afoul of existing case law, this bill is prospective and will not apply to any service earned before July 1, 2024, and it will not apply to any convictions for offenses that occurred before July 1, 2024.

This bill includes safeguards against unintended consequences that may cause harm to the State, or to family members of public employees affected.

Benefits may not be forfeited, or forfeited benefits shall be returned, if the IRS determines that forfeiture or reduction of benefits will negatively affect or invalidate the tax qualified status of any of the retirement pension systems.

Furthermore, affected employees and their spouses, former spouses, children, and other dependents may file a claim in circuit court within one year of the conviction for a partial payment of the retirement allowance. The court has the discretion to provide some or all of the forfeited benefits to a spouse, former spouse, child, or other dependent. In addition, forfeiture

may not impair or alter an existing divorce decree, or alimony or child support order. Public employees convicted of these crimes also may not have state retirement benefits paid to them that they did not earn themselves, but which they are otherwise entitled to through a divorce decree, alimony, or as a beneficiary.

This bill is modeled after existing law that requires the State's constitutional officers (the Attorney General, Comptroller, Governor, Lieutenant Governor, Secretary of State, and Treasurer) to forfeit their benefits when they commit a felony in the course of their public duties, through the use of their authority derived from their position, and which the commission of which results or in attempts to result in gain, profit, or advantage for the constitutional officer.

As of September 2022, according to the National Association of State Retirement Administrators, 40 states have a law that requires certain public employees, or their beneficiaries, to forfeit their pension under certain circumstances, or that enables the State or courts to revoke or reduce pension benefits to certain public employees or their beneficiaries under certain circumstances.

Thank you for your time. Again, I respectfully request a favorable report.