

HB0670/668370/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 670
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “**Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures**”; strike beginning with “requiring” in line 6 down through “warrant;” in line 15; in line 17, after “exception;” insert “providing that a police officer’s failure to comply with a certain requirement may be grounds for a certain disciplinary action against the officer and may not serve as the basis for the exclusion of certain evidence under a certain rule;”; and in line 19, after “lawfully” insert “and safely”.

On page 2, strike beginning with “requiring” in line 17 down through “interest;” in line 27; and strike beginning with “requiring” in line 32 down through “Statute;” in line 33.

On page 3, strike beginning with “requiring” in line 18 down through “footage;” in line 20; and strike beginning with “altering” in line 22 down through “undergo” in line 47.

On page 4, strike beginning with “less” in line 1 down through “Assembly;” in line 19; and strike beginning with “establishing” in line 34 down through “board” in line 35 and substitute “requiring a police accountability board to make a certain report and recommendations annually”.

On page 5, in line 5, strike “requiring” and substitute “authorizing”; in line 16, strike “and requiring”; in line 17, strike “requiring” and substitute “authorizing”; strike beginning with “providing” in line 25 down through “circumstances;” in line 26; strike beginning with “and” in line 33 down through “representation” in line 34 and substitute

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“may have the assistance of a representative”; and strike beginning with “authorizing” in line 40 down through “order to” in line 47.

On page 6, strike in their entirety lines 1 through 3, inclusive, and substitute “authorizing a certain assignment of benefits; establishing that law enforcement officers may be subject to forfeiture of benefits from the State Retirement and Pension System or a local system; prohibiting the payment of certain benefits to a law enforcement officer who is found guilty of, pleads guilty to, or enters a plea of nolo contendere to a qualifying crime; prohibiting the forfeiture of benefits if the forfeiture negatively affects or invalidates the tax qualified status of any of the several systems within the State Retirement and Pension System or a local system; requiring that certain forfeitures of benefits be reversed under certain circumstances; requiring the forfeiture of benefits, in whole or in part, for a law enforcement officer who is convicted of a qualifying crime; requiring the Attorney General or State’s Attorney to file a certain complaint in circuit court; requiring notice of the complaint to be sent to certain persons; requiring the State Retirement Agency and local systems to provide certain information to the Attorney General or State’s Attorney under certain circumstances; establishing certain findings that shall be made when entering an order requiring the forfeiture of benefits; requiring the forfeiture order to indicate the amount of benefits forfeit; requiring a court to consider certain factors when determining the amount of benefits subject to forfeiture; clarifying that only certain service is subject to forfeiture; authorizing a court to enter a domestic relations order that provides that some or all of the forfeited benefits be paid to certain individuals subject to certain limitations; prohibiting a forfeiture order from impairing or altering certain domestic relations orders; clarifying that a law enforcement officer may receive benefits as a beneficiary; clarifying that a law enforcement officer’s interest in benefits of a former spouse is not subject to forfeiture; authorizing the Board of Trustees for the State Retirement and Pension System to recover certain payments made to a law enforcement officer subject to a forfeiture order; authorizing a local system to recover certain payments made to a public employee subject to a forfeiture order; limiting the amount that may be recovered; authorizing certain law enforcement officers to submit an application for retirement; prohibiting the State Retirement Agency or a local system from processing a certain application for”

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retirement until certain conditions are met; requiring a forfeiture order to be rescinded under certain circumstances; requiring certain payments to be made when a conviction is overturned; providing that a law enforcement officer subject to a forfeiture order is entitled to a return of employee contributions on request; authorizing certain employee contributions to be reduced under certain circumstances; requiring the Board of Trustees to adopt certain regulations; requiring a local system to adopt certain policies and procedures;”; strike beginning with “providing” in line 5 down through “Act;” in line 6; strike beginning with “for” in line 10 down through “providing” in line 11; in line 11, after “provisions of this Act;” insert “making certain provisions of this Act contingent on the taking effect of another Act;”; and strike in their entirety lines 30 through 34, inclusive.

On pages 7 and 8, strike in their entirety the lines beginning with line 37 on page 7 through line 11 on page 8, inclusive.

On page 8, in line 15, strike “, 3-508, 3-523, and 3-524” and substitute “and 3-508”; in lines 20 and 21, strike “3-511, 3-514, 3-515, and 3-516” and substitute “3-514, and 3-515”; and strike in their entirety lines 24 through 28, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article - State Personnel and Pensions

Section 21-502(a)(3)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY adding to

Article - State Personnel and Pensions

Section 21-801 through 21-809 to be under the new subtitle “Subtitle 8.

Forfeiture of Benefits – Law Enforcement Officers”; and 40-201 through

40-209 to be under the new subtitle “Subtitle 2. Forfeiture of Benefits –

Law Enforcement Officers”

Annotated Code of Maryland

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(2015 Replacement Volume and 2020 Supplement)”.

On page 65, in lines 19, 24, and 32, strike “7.”, “8.”, and “10.”, respectively, and substitute “6.”, “7.”, and “8.”, respectively.

On page 66, in lines 6 and 15, strike “11.” and “12.”, respectively, and substitute “9.” and “10.”, respectively.

AMENDMENT NO. 2

On pages 9 through 14, strike in their entirety the lines beginning with line 33 on page 9 through line 3 on page 14, inclusive, and substitute:

“Article – Criminal Procedure”.

AMENDMENT NO. 3

On page 14, in line 7, before “**DISPLAY**” insert “**WHEN NOT IN UNIFORM,**”; in line 12, strike “**BADGE NUMBER**” and substitute “**IDENTIFICATION NUMBER ISSUED BY THE LAW ENFORCEMENT AGENCY THE OFFICER IS REPRESENTING**”; in line 16, after “**(B)**” insert “**A POLICE OFFICER’S FAILURE TO COMPLY WITH SUBSECTION (A) OF THIS SECTION:**

(1) MAY BE GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION AGAINST THE OFFICER; AND

(2) MAY NOT SERVE AS THE BASIS FOR THE EXCLUSION OF EVIDENCE UNDER THE EXCLUSIONARY RULE.

(C)”;

and in line 18, after “**LAWFULLY**” insert “**AND SAFELY**”.

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AMENDMENT NO. 4

On page 17, in line 16, strike “4-YEAR”; strike beginning with “IN” in line 16 down through “JUSTICE” in line 17 and substitute “THAT WOULD FURTHER THE STUDENT’S CAREER IN LAW ENFORCEMENT”; in line 19, strike “4-YEAR”; and in line 20, strike “IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE” and substitute “THAT WOULD FURTHER THE POLICE OFFICER’S CAREER IN LAW ENFORCEMENT”.

On page 18, strike beginning with “IN” in line 5 down through “JUSTICE” in line 6 and substitute “THAT WOULD FURTHER THE RECIPIENT’S CAREER IN LAW ENFORCEMENT”.

AMENDMENT NO. 5

On pages 19 and 20, strike in their entirety the lines beginning with line 12 on page 19 through line 24 on page 20, inclusive.

AMENDMENT NO. 6

On page 21, in line 5, after “FROM” insert “INTENTIONAL”; in line 6, after “OMISSIONS” insert “OR INTENTIONAL VIOLATIONS OF CONSTITUTIONAL RIGHTS”; in line 8, strike “1.”; in the same line, strike “ITEM 2 OF THIS ITEM AND”; and strike in their entirety lines 11 through 16, inclusive.

On page 22, in line 1, after “FROM” insert “INTENTIONAL”; in line 2, after “OMISSIONS” insert “OR INTENTIONAL VIOLATIONS OF CONSTITUTIONAL RIGHTS”; in line 4, strike “A.”; in the same line, strike “ITEM B OF THIS ITEM AND”; and strike in their entirety lines 7 through 12, inclusive.

AMENDMENT NO. 7

On pages 22 through 28, strike in their entirety the lines beginning with line 22 on page 22 through line 2 on page 28, inclusive.

On page 65, strike in their entirety lines 28 through 31, inclusive.

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AMENDMENT NO. 8

On page 28, strike in their entirety lines 15 and 16.

On pages 29 and 30, strike in their entirety the lines beginning with line 9 on page 29 through line 4 on page 30, inclusive.

AMENDMENT NO. 9

On page 41, before line 2, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety”;

in lines 13, 16, 17, and 27, in each instance, strike the bracket; strike line 15 in its entirety; in lines 16, 17, 19, and 25, strike “(10)”, “(11)”, “(12)”, and “(9)”, respectively, and substitute “(9)”, “(10)”, “(11)”, and “(12)”, respectively; in line 20, after “Justice;” insert “AND”; and strike in their entirety lines 21 through 24, inclusive.

On page 42, in lines 1, 2, and 3 in each instance, strike the bracket; in lines 1, 2, and 3, in each instance, strike “individual” and substitute “CIVILIAN”; in line 1, after “policing” insert “WHO DOES NOT HAVE RELATIONSHIPS TO LAW ENFORCEMENT”; in line 2, after “standards” insert “WHO DOES NOT HAVE RELATIONSHIPS TO LAW ENFORCEMENT”; in lines 2, 3, and 5, strike “(II)”, “(III)”, and “(IV)”, respectively; in line 3, strike “WITHOUT” and substitute “WHO DOES NOT HAVE”; in line 5, strike the first set of brackets; in the same line, strike “NINE” and substitute “THREE”; in the same line, strike “without” and substitute “WHO REPRESENT DIFFERENT GEOGRAPHIC AREAS OF THE STATE AND DO NOT HAVE”.

On page 46, after line 4, insert:

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“SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety”.

AMENDMENT NO. 10

On pages 49 and 50, strike in their entirety the lines beginning with line 21 on page 49 through line 23 on page 50, inclusive.

AMENDMENT NO. 11

On pages 51 and 52, strike in their entirety the lines beginning with line 34 on page 51 through line 12 on page 52, inclusive.

AMENDMENT NO. 12

On pages 53 through 57, strike in their entirety the lines beginning with line 16 on page 53 through line 26 on page 57, inclusive.

On pages 58 and 59, strike in their entirety the lines beginning with line 26 on page 58 through line 20 on page 59, inclusive.

AMENDMENT NO. 13

On page 58, strike in their entirety lines 6 through 15, inclusive.

AMENDMENT NO. 14

On page 28, in lines 17, 19, 22, and 29, strike “**(F)**”, “**(G)**”, “**(H)**”, and “**(I)**”, respectively, and substitute “**(E)**”, “**(F)**”, “**(G)**”, and “**(H)**”, respectively.

On page 29, in lines 2, 4, and 6, strike “**(J)**”, “**(K)**”, and “**(L)**”, respectively, and substitute “**(I)**”, “**(J)**”, and “**(K)**”, respectively.

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On page 30, strike beginning with "RECEIVE" in line 11 down through "(4)" in line 13 and substitute "(I)"; in line 14, after "COMMITTEES" insert ";AND

(II) ON OR BEFORE DECEMBER 31 EACH YEAR, SUBMIT A REPORT TO THE GOVERNING BODY OF THE COUNTY THAT:

1. IDENTIFIES ANY TRENDS IN THE DISCIPLINARY PROCESS OF POLICE OFFICERS IN THE COUNTY; AND

2. MAKES RECOMMENDATIONS ON CHANGES TO POLICY THAT WOULD IMPROVE POLICE ACCOUNTABILITY IN THE COUNTY";

and strike in their entirety lines 23 through 30, inclusive.

On page 31, strike in their entirety lines 1 through 6, inclusive; in lines 7 and 25, strike "3-104." and "3-105.", respectively, and substitute "3-103." and "3-104.", respectively; strike beginning with the colon in line 20 down through "(II)" in line 23; and strike beginning with "OR" in line 23 down through "PERJURY" in line 24.

On page 32, in line 3, after "BOARD" insert "OR ANOTHER MEMBER OF THE ACCOUNTABILITY BOARD DESIGNATED BY THE CHAIR OF THE ACCOUNTABILITY BOARD"; strike in their entirety lines 4 through 16, inclusive, and substitute:

"(II) ONE DESIGNEE OF THE COUNTY'S POLICE CHIEF;

(III) ONE DESIGNEE OF THE COLLECTIVE BARGAINING UNIT FOR LAW ENFORCEMENT IN THE COUNTY, OR A DESIGNEE OF THE STATE LAW ENFORCEMENT OFFICER'S LABOR ALLIANCE IF THERE IS NO COLLECTIVE BARGAINING UNIT FOR LAW ENFORCEMENT IN THE COUNTY;";

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strike beginning with the first "**THE**" in line 19 down through "**COUNTY**" in line 20 and substitute "**ONE CIVILIAN SELECTED BY THE CHIEF EXECUTIVE OF THE COUNTY**"; and strike in their entirety lines 25 through 29, inclusive, and substitute:

- "(I) A CIVILIAN MEMBER APPOINTED BY THE GOVERNOR;**
- "(II) A CIVILIAN MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;**
- "(III) A CIVILIAN MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE;**
- "(IV) A MEMBER APPOINTED BY THE SECRETARY OF STATE POLICE; AND**
- "(V) A MEMBER APPOINTED BY THE MARYLAND STATE LODGE OF THE FRATERNAL ORDER OF POLICE."**

On page 33, strike in their entirety lines 1 through 4, inclusive; strike beginning with "**ON**" in line 9 down through "**(E)**" in line 13; in line 14, after "**(1)**" insert "**RECEIVE COMPLAINTS OF MISCONDUCT FILED BY MEMBERS OF THE PUBLIC;**

(2);

in line 16, strike "**(D)**" and substitute "**(G)**"; in lines 17, 21, 24, and 26, strike "**(2)**", "**(3)**", "**(4)**", and "**(5)**", respectively, and substitute "**(3)**", "**(4)**", "**(5)**", and "**(6)**", respectively; in line 23, strike "**3-106**" and substitute "**3-105**"; after line 27, insert:

"(E) (1) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A POLICE ACCOUNTABILITY BOARD SHALL INCLUDE:

(Over)

(I) THE NAME OF THE POLICE OFFICER ACCUSED OF MISCONDUCT;

(II) A DESCRIPTION OF THE FACTS ON WHICH THE COMPLAINT IS BASED; AND

(III) CONTACT INFORMATION OF THE COMPLAINANT OR A PERSON FILING ON BEHALF OF THE COMPLAINANT FOR INVESTIGATIVE FOLLOW-UP.

(2) A COMPLAINT NEED NOT BE NOTARIZED.

(F) AFTER RECEIVING A COMPLAINT FROM A MEMBER OF THE PUBLIC, AN ADMINISTRATIVE CHARGING COMMITTEE SHALL FORWARD THE COMPLAINT TO THE LAW ENFORCEMENT AGENCY WITH JURISDICTION FOR INVESTIGATION.

(G) ON COMPLETION OF AN INVESTIGATION OF A COMPLAINT MADE BY A MEMBER OF THE PUBLIC AGAINST A POLICE OFFICER, THE LAW ENFORCEMENT AGENCY SHALL FORWARD TO THE APPROPRIATE ADMINISTRATIVE CHARGING COMMITTEE THE INVESTIGATIVE FILES FOR THE MATTER.”;

in line 28, strike “(F)” and substitute “(H)”; and in the same line, strike “(E)” and substitute “(D)”.

On page 34, in line 6, strike “OR”; in line 7, strike “AND” and substitute “; OR”

(III) AN ADMINISTRATIVE CHARGE IS NOT IN THE INTEREST OF JUSTICE BECAUSE THE POLICE OFFICER HAS PARTICIPATED IN A RESTORATIVE JUSTICE PROGRAM; AND”;

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in line 8, strike “A” and substitute “ANY”; in lines 10 and 12, strike “(G)” and “(H)”, respectively, and substitute “(I)” and “(J)”, respectively; in line 11, strike “AND ADDITIONALLY” and substitute “OR”; in line 14, after “UNTIL” insert “FINAL”; and in line 15, strike “3-106.” and substitute “3-105.”.

On page 35, in line 3, strike “3-107.” and substitute “3-106.”; in line 6, after “SECTION” insert “TO ADJUDICATE MATTERS FOR WHICH A LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINE”; in line 11, strike the first “OR” and substitute a comma; in the same line, after “COURT” insert “, OR A DISINTERESTED ATTORNEY, APPOINTED BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY”; in line 12, after “A CIVILIAN” insert “WHO IS NOT A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE,”; and in line 15, after “MISCONDUCT” insert “APPOINTED BY THE HEAD OF THE LAW ENFORCEMENT AGENCY” .

On page 36, in line 22, strike “3-108.” and substitute “3-107.”.

On page 37, strike in their entirety lines 4 through 13, inclusive, and substitute:

“(B) (1) A CHIEF OR A CHIEF’S DESIGNEE MAY SUSPEND A LAW ENFORCEMENT OFFICER WITHOUT PAY AND SUSPEND THE LAW ENFORCEMENT OFFICER’S POLICE POWERS ON AN EMERGENCY BASIS IF THE LAW ENFORCEMENT OFFICER IS CHARGED WITH A CRIME.”;

strike beginning with “POLICE” in line 15 down through “BASED” in line 17 and substitute “CRIMINAL CHARGE OR CHARGES AGAINST THE POLICE OFFICER RESULT IN:

(I) A FINDING OF NOT GUILTY;

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(II) AN ACQUITTAL;

(III) A DISMISSAL; OR

(IV) A NOLLE PROSEQUI;

in line 18, strike “SHALL” and substitute “MAY”; in line 19, strike “OR RECEIVES A PROBATION BEFORE JUDGMENT FOR”; in line 22, after “OFFICER;” insert “OR”; and strike beginning with “A” in line 23 down through “(4)” in line 24.

On page 38, in line 8, after “CRIMINAL” insert “OR CIVIL”; strike in their entirety lines 10 through 13, inclusive; in line 14, strike “3-109.” and substitute “3-108.”; and in line 28, after “STATEMENT” insert “, IF ANY,”.

On page 39, strike in their entirety lines 12 through 21, inclusive; in lines 22 and 26, strike “3-110.” and “3-111.”, respectively, and substitute “3-109.” and “3-110.”, respectively; and in line 24, strike “HAVE THE RIGHT TO REPRESENTATION” and substitute “MAY HAVE THE ASSISTANCE OF A REPRESENTATIVE”.

On page 40, in lines 20 and 23, strike “3-112.” and “3-113.”, respectively, and substitute “3-111.” and “3-112.”, respectively; and strike in their entirety lines 24 through 28, inclusive.

On page 41, strike line 1 in its entirety and substitute:

“(A) ON WRITTEN REQUEST, A POLICE OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE POLICE OFFICER IF:

(1) (I) THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE COMPLAINT:

1. EXONERATED THE POLICE OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

(II) A TRIAL BOARD ACQUITTED THE POLICE OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

(2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY THE LAW ENFORCEMENT AGENCY OR HEARING BOARD.

(B) EVIDENCE OF A FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER IS NOT ADMISSIBLE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING IF THE COMPLAINT RESULTED IN AN OUTCOME LISTED IN SUBSECTION (A)(1) OF THIS SECTION.

3-113.

(A) THE INVESTIGATING UNIT OF A LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY REVIEW A COMPLAINT BY A MEMBER OF THE PUBLIC ALLEGING POLICE OFFICER MISCONDUCT.

(B) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL REVIEW AND MAKE A DETERMINATION OR ASK FOR FURTHER REVIEW WITHIN 30 DAYS AFTER COMPLETION OF THE INVESTIGATING UNIT'S REVIEW.

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(C) THE PROCESS OF REVIEW BY THE INVESTIGATING UNIT THROUGH DISPOSITION BY THE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPLETED WITHIN 1 YEAR AND 1 DAY AFTER THE FILING OF A COMPLAINT BY A CITIZEN.”.

AMENDMENT NO. 15

On pages 63 through 65, strike in their entirety the lines beginning with line 13 on page 63 through line 18 on page 65, inclusive, and substitute:

“21-502.

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

SUBTITLE 8. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.

21-801.

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

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

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

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

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

(2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

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

(1) A FELONY;

(2) PERJURY; OR

(3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

(F) “RETIREMENT ALLOWANCE”:

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

(2) INCLUDES A VESTED ALLOWANCE.

(G) “VESTED ALLOWANCE” HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE.

21-802.

(A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:

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

(I) STATE POLICE RETIREMENT SYSTEM;

(II) LAW ENFORCEMENT OFFICERS’ PENSION SYSTEM; OR

(III) EMPLOYEES’ PENSION SYSTEM OR EMPLOYEES’ RETIREMENT SYSTEM; AND

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

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

21-803.

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

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

(2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF ANY OF THE SEVERAL SYSTEMS, ANY FORFEITURE OF BENEFITS THAT TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE'S DETERMINATION SHALL BE REVERSED IN ACCORDANCE WITH § 21-807 OF THIS SUBTITLE TO THE EXTENT NECESSARY TO COMPLY WITH THE DETERMINATION.

21-804.

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

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

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

(I) THE LAW ENFORCEMENT OFFICER;

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

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

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

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

(VI) THE STATE RETIREMENT AGENCY.

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

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

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

(2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS'

PENSION SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES' RETIREMENT SYSTEM; AND

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

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

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

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

(I) THE SEVERITY OF THE CRIME;

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

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

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

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

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

(VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

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

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

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

(G) (1) AN ORDER REQUIRING A FORFEITURE OF BENEFITS ISSUED UNDER THIS SECTION MAY NOT IMPAIR OR ALTER AN EXISTING DOMESTIC

RELATIONS ORDER PROVIDING BENEFITS TO A FORMER SPOUSE OF A LAW ENFORCEMENT OFFICER.

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

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

21-805.

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

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

21-806.

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

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

(Over)

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

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

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

21-807.

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

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

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

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

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

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

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

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

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

21-808.

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

(Over)

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

21-809.

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

SUBTITLE 2. FORFEITURE OF BENEFITS – LAW ENFORCEMENT OFFICERS.

40-201.

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

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

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

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

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

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

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

(2) HAS BEEN CHARGED WITH A QUALIFYING CRIME.

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

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

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

(1) A FELONY;

(Over)

(2) PERJURY; OR

(3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.

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

(K) “RETIREMENT ALLOWANCE”:

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

(2) INCLUDES A VESTED ALLOWANCE.

(L) “VESTED ALLOWANCE”, WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

40–202.

(A) THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO:

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

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

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

40-203.

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

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

(2) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT THE APPLICATION OF THIS SUBTITLE WOULD NEGATIVELY AFFECT OR INVALIDATE THE TAX QUALIFIED STATUS OF A LOCAL SYSTEM, ANY FORFEITURE OF BENEFITS THAT TOOK PLACE BEFORE THE INTERNAL REVENUE SERVICE'S DETERMINATION SHALL BE REVERSED IN ACCORDANCE WITH § 40-207 OF THIS SUBTITLE TO THE EXTENT NECESSARY TO COMPLY WITH THE DETERMINATION.

(C) A COURT OF COMPETENT JURISDICTION MAY EXPRESSLY ORDER THAT A BENEFIT UNDER A LOCAL SYSTEM BE ASSIGNED TO A SPOUSE, FORMER

(Over)

SPOUSE, CHILD, OR OTHER DEPENDENT WHEN AN ORDER OF BENEFIT FORFEITURE IS ISSUED IN ACCORDANCE WITH § 40-204 OF THIS SUBTITLE.

40-204.

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

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

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

(I) THE LAW ENFORCEMENT OFFICER;

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

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

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

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

(VI) THE LOCAL SYSTEM.

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

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

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

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

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

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

(Over)

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

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

(I) THE SEVERITY OF THE CRIME;

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

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

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

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

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

(VII) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.

(F) (1) IF THE COURT ENTERS AN ORDER REQUIRING THE FORFEITURE OF BENEFITS, THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE

PAID TO A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDENT FOR PURPOSES OF CHILD SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.

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

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

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

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

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

40-205.

(Over)

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

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

40-206.

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

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

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

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

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

40-207.

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

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

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

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

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

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

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

(Over)

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

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

40-208.

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

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

40-209.

A LOCAL SYSTEM SHALL ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THIS SUBTITLE.”.

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AMENDMENT NO. 16

On page 65, in line 24, strike “Section 4 of this Act” and substitute “§ 5–303 of the Courts and Judicial Proceedings Article, as enacted by Section 3 of this Act, and § 12–103 of the State Government Article, as enacted by Section 3 of this Act.”; in line 27, strike “September 30, 2021” and substitute “June 30, 2022”; and strike beginning with “Section” in line 32 down through “shall” in line 33 and substitute “Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall”.

On page 66, strike in their entirety lines 21 through 24, inclusive, and substitute:

“SECTION 11. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect July 1, 2022, contingent on the taking effect of Chapter _____ (S.B. 71) of the Acts of the General Assembly of 2021, and if Chapter _____ (S.B. 71) does not take effect, Section 4 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 12. AND BE IT FURTHER ENACTED, That, except as provided in Section 11 of this Act, this Act shall take effect July 1, 2022.”.