

HOUSE BILL 731

P6

3lr0566
CF SB 597

By: **Delegate Wilkins**

Introduced and read first time: February 8, 2023

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; 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 2022 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”; the subtitle designation “Subtitle 1.
19 Local Pension Systems” to immediately precede Section 40–101; and 40–201
20 through 40–209 to be under the new subtitle “Subtitle 2. Forfeiture of Benefits
21 – Law Enforcement Officers”
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – State Personnel and Pensions
26 Section 40–101(a)
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Personnel and Pensions**

4 21–502.

5 (a) (3) A court of competent jurisdiction may expressly order that a benefit
6 under this Division II be assigned to a spouse, former spouse, child, or other dependent
7 when [an order of benefit forfeiture is issued] **A FORFEITURE OF BENEFITS OCCURS** in
8 accordance with § 21–704 **OR § 21–804** of this title.

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

10 **21–801.**

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

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

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

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

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

24 (2) **HAS BEEN CHARGED WITH A QUALIFYING CRIME.**

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

28 (1) **A FELONY;**

29 (2) **PERJURY; OR**

1 **(3) A MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.**

2 **(F) “RETIREMENT ALLOWANCE”:**

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

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

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

7 **21–802.**

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

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

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

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

12 **(III) THE EMPLOYEES’ PENSION SYSTEM OR THE EMPLOYEES’**
13 **RETIREMENT SYSTEM; AND**

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

16 **(B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE**
17 **JULY 1, 2023.**

18 **21–803.**

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

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

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

7 **21-804.**

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

11 **(B) (1) EXCEPT AS PROVIDED UNDER SUBSECTIONS (C), (D), AND (E) OF**
12 **THIS SECTION, BENEFITS MAY NOT BE PAID TO A LAW ENFORCEMENT OFFICER IF**
13 **THE BOARD OF TRUSTEES FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

14 **(I) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A**
15 **QUALIFYING CRIME;**

16 **(II) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE**
17 **STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS'**
18 **PENSION SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES'**
19 **RETIREMENT SYSTEM; AND**

20 **(III) THE QUALIFYING CRIME FOR WHICH THE LAW**
21 **ENFORCEMENT OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW**
22 **ENFORCEMENT OFFICER WAS AN ACTIVE MEMBER OF THE STATE POLICE**
23 **RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, THE**
24 **EMPLOYEES' PENSION SYSTEM, OR THE EMPLOYEES' RETIREMENT SYSTEM.**

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

28 **(C) (1) A LAW ENFORCEMENT OFFICER CONVICTED OF A QUALIFYING**
29 **CRIME MAY, WITHIN 1 YEAR AFTER THE CONVICTION, FILE A CLAIM IN CIRCUIT**
30 **COURT FOR A PARTIAL PAYMENT OF THE LAW ENFORCEMENT OFFICER'S**
31 **RETIREMENT ALLOWANCE.**

32 **(2) NOTICE OF THE CLAIM FILED UNDER PARAGRAPH (1) OF THIS**
33 **SUBSECTION SHALL BE SERVED ON THE STATE RETIREMENT AGENCY.**

1 **(3) WHEN CONSIDERING A CLAIM OF A LAW ENFORCEMENT OFFICER**
2 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL CONSIDER:**

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

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

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

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

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

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

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

16 **(4) (I) AN ORDER GRANTING A LAW ENFORCEMENT OFFICER'S**
17 **CLAIM FOR A PARTIAL PAYMENT OF BENEFITS SHALL INDICATE THE AMOUNT OF**
18 **BENEFITS TO BE PAID.**

19 **(II) THE COURT MAY NOT ORDER A PARTIAL PAYMENT OF**
20 **BENEFITS TO BE PAID TO A LAW ENFORCEMENT OFFICER IN A MANNER THAT IS**
21 **INCONSISTENT WITH THE PAYMENT OF BENEFITS IN THE STATE SYSTEM IN WHICH**
22 **THE LAW ENFORCEMENT OFFICER WAS A MEMBER.**

23 **(D) (1) A SPOUSE, A FORMER SPOUSE, A CHILD, OR ANY OTHER**
24 **DEPENDENT OF A LAW ENFORCEMENT OFFICER CONVICTED OF A QUALIFYING**
25 **CRIME MAY, WITHIN 1 YEAR AFTER THE CONVICTION, FILE A CLAIM IN CIRCUIT**
26 **COURT FOR A PARTIAL PAYMENT OF THE LAW ENFORCEMENT OFFICER'S**
27 **RETIREMENT ALLOWANCE FOR PURPOSES OF CHILD SUPPORT, ALIMONY, OR**
28 **MARITAL PROPERTY RIGHTS.**

29 **(2) NOTICE OF THE CLAIM FILED UNDER PARAGRAPH (1) OF THIS**
30 **SUBSECTION SHALL BE SERVED ON THE STATE RETIREMENT AGENCY.**

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

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

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

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

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

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

22 **21-805.**

23 **(A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE BEING**
24 **CONVICTED OF A QUALIFYING CRIME, THE BOARD OF TRUSTEES MAY RECOVER**
25 **FROM THE LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS PAID TO THE**
26 **LAW ENFORCEMENT OFFICER BEFORE THE CONVICTION.**

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

31 **21-806.**

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

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

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

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

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

12 **21-807.**

13 **(A) (1) ON RECEIPT OF AN ORDER THAT REVERSES OR OVERTURNS A**
14 **CONVICTION OF A LAW ENFORCEMENT OFFICER, THE BOARD OF TRUSTEES SHALL**
15 **RESCIND THE FORFEITURE OF BENEFITS AND PAY ANY BENEFITS THAT ARE**
16 **PAYABLE UNDER THIS DIVISION II OF THIS ARTICLE TO THE LAW ENFORCEMENT**
17 **OFFICER.**

18 **(2) WHEN A CONVICTION IS OVERTURNED, ANY DOMESTIC**
19 **RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 21-804(D) OF THIS SUBTITLE**
20 **IS TERMINATED AND THE BOARD OF TRUSTEES MAY NOT PAY ANY BENEFITS IN**
21 **ACCORDANCE WITH THE ORDER.**

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

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

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

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

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

1 **(3) BENEFIT PAYMENTS THAT WOULD HAVE BEEN MADE DURING THE**
2 **TIME FROM THE DATE OF CONVICTION TO THE DATE THE CONVICTION IS**
3 **OVERTURNED SHALL BE MADE TO THE LAW ENFORCEMENT OFFICER, LESS ANY**
4 **PAYMENTS:**

5 **(I) MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS**
6 **ORDER DIRECTING PAYMENT OF BENEFITS TO A SPOUSE, A FORMER SPOUSE, A**
7 **CHILD, OR ANY OTHER DEPENDENT; AND**

8 **(II) RECEIVED BY THE LAW ENFORCEMENT OFFICER IN**
9 **ACCORDANCE WITH AN ORDER ISSUED UNDER § 21-804 OF THIS SUBTITLE**
10 **GRANTING THE LAW ENFORCEMENT OFFICER A PARTIAL PAYMENT OF BENEFITS.**

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

15 **21-808.**

16 **(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, A LAW**
17 **ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE IS**
18 **ENTITLED TO A RETURN OF THE INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON**
19 **REQUEST UNDER § 29-501 OF THIS ARTICLE.**

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

25 **21-809.**

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

28 **SUBTITLE 1. LOCAL PENSION SYSTEMS.**

29 **40-101.**

30 **(a) In this section, "local jurisdiction" means any county or municipal corporation**
31 **in the State.**

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

1 40-201.

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

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

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

13 (D) "FINAL ADJUDICATION" MEANS ADJUDICATION BY A TRIAL COURT
14 RESULTING IN FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A
15 QUALIFYING CRIME.

16 (E) "FORMER MEMBER", WHEN USED IN RELATION TO A LOCAL SYSTEM,
17 HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN §
18 20-101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

19 (F) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO:

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

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

22 (G) "LOCAL SYSTEM" MEANS A RETIREMENT OR PENSION SYSTEM
23 OPERATED FOR THE BENEFIT OF EMPLOYEES OF A POLITICAL SUBDIVISION OF THE
24 STATE.

25 (H) "MEMBER", WHEN USED IN RELATION TO A LOCAL SYSTEM, HAS THE
26 MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN § 20-101 OF THIS
27 ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

28 (I) "QUALIFYING CRIME" MEANS A CRIMINAL OFFENSE THAT IS
29 COMMITTED IN THE COURSE OF THE PERFORMANCE OF THE LAW ENFORCEMENT
30 OFFICER'S DUTIES AND RESPONSIBILITIES THAT IS:

1 (1) A FELONY;

2 (2) PERJURY; OR

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

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

7 (K) “RETIREMENT ALLOWANCE”:

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

11 (2) INCLUDES A VESTED ALLOWANCE.

12 (L) “VESTED ALLOWANCE”, WHEN USED IN RELATION TO A LOCAL SYSTEM,
13 HAS THE MEANING MOST CLOSELY ANALOGOUS TO THE MEANING STATED IN §
14 20–101 OF THIS ARTICLE WITHIN THE CONTEXT OF THE LOCAL SYSTEM.

15 **40–202.**

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

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

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

21 (B) THIS SUBTITLE DOES NOT APPLY TO ANY SERVICE EARNED BEFORE
22 JULY 1, 2023.

23 **40–203.**

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

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

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

12 **(C) A COURT OF COMPETENT JURISDICTION MAY EXPRESSLY ORDER THAT**
13 **A BENEFIT UNDER A LOCAL SYSTEM BE ASSIGNED TO A SPOUSE, A FORMER SPOUSE,**
14 **A CHILD, OR ANY OTHER DEPENDENT WHEN A FORFEITURE OF BENEFITS OCCURS IN**
15 **ACCORDANCE WITH § 40-204 OF THIS SUBTITLE.**

16 **40-204.**

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

20 **(B) (1) EXCEPT AS PROVIDED UNDER SUBSECTIONS (C), (D), AND (E) OF**
21 **THIS SECTION, BENEFITS MAY NOT BE PAID TO A LAW ENFORCEMENT OFFICER IF**
22 **THE LOCAL SYSTEM FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

23 **(I) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A**
24 **QUALIFYING CRIME;**

25 **(II) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE**
26 **LOCAL SYSTEM; AND**

27 **(III) THE QUALIFYING CRIME FOR WHICH THE LAW**
28 **ENFORCEMENT OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW**
29 **ENFORCEMENT OFFICER WAS AN ACTIVE MEMBER OF THE LOCAL SYSTEM.**

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

33 **(C) (1) A LAW ENFORCEMENT OFFICER CONVICTED OF A QUALIFYING**
34 **CRIME MAY, WITHIN 1 YEAR AFTER THE CONVICTION, FILE A CLAIM IN CIRCUIT**

1 COURT FOR A PARTIAL PAYMENT OF THE LAW ENFORCEMENT OFFICER'S
2 RETIREMENT ALLOWANCE.

3 (2) NOTICE OF THE CLAIM FILED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION SHALL BE SERVED ON THE LOCAL SYSTEM.

5 (3) WHEN CONSIDERING A CLAIM OF A LAW ENFORCEMENT OFFICER
6 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL CONSIDER:

7 (I) THE SEVERITY OF THE CRIME;

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

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

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

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

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

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

20 (4) (I) AN ORDER GRANTING A LAW ENFORCEMENT OFFICER'S
21 CLAIM FOR A PARTIAL PAYMENT OF BENEFITS SHALL INDICATE THE AMOUNT OF
22 BENEFITS TO BE PAID.

23 (II) THE COURT MAY NOT ORDER A PARTIAL PAYMENT OF
24 BENEFITS TO BE PAID TO A LAW ENFORCEMENT OFFICER IN A MANNER THAT IS
25 INCONSISTENT WITH THE PAYMENT OF BENEFITS IN THE LOCAL SYSTEM IN WHICH
26 THE LAW ENFORCEMENT OFFICER WAS A MEMBER.

27 (D) (1) A SPOUSE, A FORMER SPOUSE, A CHILD, OR ANY OTHER
28 DEPENDENT OF A LAW ENFORCEMENT OFFICER CONVICTED OF A QUALIFYING
29 CRIME MAY, WITHIN 1 YEAR AFTER THE CONVICTION, FILE A CLAIM IN CIRCUIT
30 COURT FOR A PARTIAL PAYMENT OF THE LAW ENFORCEMENT OFFICER'S

1 RETIREMENT ALLOWANCE FOR PURPOSES OF CHILD SUPPORT, ALIMONY, OR
2 MARITAL PROPERTY RIGHTS.

3 (2) NOTICE OF THE CLAIM FILED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION SHALL BE SERVED ON THE LOCAL SYSTEM.

5 (3) THE COURT MAY ENTER A DOMESTIC RELATIONS ORDER THAT
6 PROVIDES THAT SOME OR ALL OF THE FORFEITED BENEFITS BE PAID TO A SPOUSE,
7 A FORMER SPOUSE, A CHILD, OR ANY OTHER DEPENDENT FOR PURPOSES OF CHILD
8 SUPPORT, ALIMONY, OR MARITAL PROPERTY RIGHTS.

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

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

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

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

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

26 40-205.

27 (A) IF A LAW ENFORCEMENT OFFICER HAS RETIRED BEFORE BEING
28 CONVICTED OF A QUALIFYING CRIME, THE LOCAL SYSTEM MAY RECOVER FROM THE
29 LAW ENFORCEMENT OFFICER THE AMOUNT OF BENEFITS PAID TO THE LAW
30 ENFORCEMENT OFFICER BEFORE THE CONVICTION.

31 (B) THE RECOVERY UNDER SUBSECTION (A) OF THIS SECTION IS LIMITED
32 TO AN AMOUNT EQUAL TO THE BENEFITS THAT WOULD HAVE BEEN FORFEITED HAD
33 THE CONVICTION OCCURRED BEFORE THE LAW ENFORCEMENT OFFICER BEGAN
34 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 LOCAL SYSTEM SHALL
18 RESCIND THE FORFEITURE OF BENEFITS AND PAY ANY BENEFITS THAT ARE
19 PAYABLE TO THE LAW ENFORCEMENT OFFICER UNDER THE PROVISIONS OF THE
20 LOCAL SYSTEM.

21 (2) WHEN A CONVICTION IS OVERTURNED, ANY DOMESTIC
22 RELATIONS ORDER ENTERED IN ACCORDANCE WITH § 40-204(D) OF THIS SUBTITLE
23 IS TERMINATED AND THE LOCAL SYSTEM MAY NOT PAY ANY BENEFITS IN
24 ACCORDANCE WITH THE ORDER.

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:

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:**

10 **(I) MADE IN ACCORDANCE WITH A DOMESTIC RELATIONS**
11 **ORDER DIRECTING PAYMENT OF BENEFITS TO A SPOUSE, A FORMER SPOUSE, A**
12 **CHILD, OR ANY OTHER DEPENDENT; AND**

13 **(II) RECEIVED BY THE LAW ENFORCEMENT OFFICER IN**
14 **ACCORDANCE WITH AN ORDER ISSUED UNDER § 40-204 OF THIS SUBTITLE**
15 **GRANTING THE LAW ENFORCEMENT OFFICER A PARTIAL PAYMENT OF BENEFITS.**

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

20 **40-208.**

21 **(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, A LAW**
22 **ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE UNDER THIS SUBTITLE IS**
23 **ENTITLED TO A RETURN OF THE INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS ON**
24 **REQUEST AS PROVIDED BY THE LOCAL SYSTEM.**

25 **(B) THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS**
26 **SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY BENEFIT PAYMENTS RECEIVED**
27 **BY THE LAW ENFORCEMENT OFFICER THAT WOULD HAVE BEEN SUBJECT TO**
28 **FORFEITURE AND HAVE NOT BEEN RECOVERED BY THE LOCAL SYSTEM UNDER §**
29 **40-205 OF THIS SUBTITLE.**

30 **40-209.**

31 **A LOCAL SYSTEM SHALL ADOPT POLICIES AND PROCEDURES TO IMPLEMENT**
32 **THIS SUBTITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to any crime committed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2023.