

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 52

5 By: Senators M. Johnson, Caldwell  
6 By: Representatives G. Hodges, Lowery  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING RETIREMENT  
10 BENEFITS; TO PROHIBIT COLLECTION OF BENEFITS BY  
11 PUBLIC RETIREES WHO ARE CONVICTED OF A FELONY OFFENSE  
12 ARISING FROM OFFICIAL ACTIONS AS A PUBLIC EMPLOYEE;  
13 AND FOR OTHER PURPOSES.  
14

## Subtitle

15  
16 TO AMEND THE LAW CONCERNING RETIREMENT  
17 BENEFITS; AND TO PROHIBIT COLLECTION OF  
18 BENEFITS BY PUBLIC RETIREES WHO ARE  
19 CONVICTED OF A FELONY OFFENSE ARISING  
20 FROM OFFICIAL ACTIONS AS A PUBLIC  
21 EMPLOYEE.  
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24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 24-1-302(a)(1)(A) and (B), concerning the  
28 forfeiture of retirement benefits by a beneficiary who has unlawfully killed  
29 a member or retirant, are amended to read as follows:

30 (A) Is convicted by a court of competent jurisdiction of  
31 ~~the:~~

32 (i) The unlawful killing of the member or retirant;  
33 or

34 (ii) A felony offense arising out a member's  
35 official actions while serving as a public employee;

36 (B) Pleads guilty or nolo contendere to ~~the:~~

- 1                   (i) The unlawful killing of the member or retirant;  
 2 or  
 3                   (ii) A felony offense arising out a member's  
 4 official actions while serving as a public employee;

5  
 6           SECTION 2. Arkansas Code § 24-1-303 is amended to read as follows:

7           24-1-303. Suspension of benefit payments.

8           (a) A retirement system may suspend benefit payments to a member or  
 9 beneficiary if the retirement system:

10           (1) Receives the written notice required under § 24-1-304 from a  
 11 prosecuting attorney; or

12           (2) Has reasonable cause to believe that the member or  
 13 beneficiary will be charged with ~~the unlawful killing of the member or~~  
 14 ~~retirant~~ any offense described under § 24-1-302 or § 24-1-306.

15           (b) If benefit payments are suspended under this section, the  
 16 suspension shall continue until:

17           (1) A final adjudication of the criminal or civil proceeding; or

18           (2)(A) The retirement system receives written confirmation from  
 19 the prosecuting attorney that the member or beneficiary will not be charged  
 20 with the ~~unlawful killing of the member or retirant~~ offense described under §  
 21 24-1-302 or § 24-1-306.

22           (B) The retirement system shall request written  
 23 confirmation from the prosecuting attorney stating that the member or  
 24 beneficiary will not be charged with the ~~unlawful killing of the member or~~  
 25 ~~retirant~~ offense described under § 24-1-302 or § 24-1-306.

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 27           SECTION 3. Arkansas Code § 24-1-304 is amended to read as follows:

28           24-1-304. Notice to retirement system.

29           (a) A prosecuting attorney shall send written notice by certified  
 30 mail, return receipt requested, to the executive director or executive  
 31 secretary of the applicable retirement system when a member or beneficiary:

32           (1) Is charged with an offense described under § 24-1-302 or §  
 33 24-1-306; or

34           (2)(A) Will not be charged with an offense described under § 24-  
 35 1-302 or § 24-1-306.

36           (B) If the prosecuting attorney receives a request under §

1 24-1-303 from a retirement system and a decision on whether the member or  
2 beneficiary will be ~~or will not be~~ charged with an offense described under §  
3 24-1-302 or § 24-1-306 has not been made, the prosecuting attorney shall  
4 notify the retirement system that a decision is pending.

5 (b) The clerk of the court in which the proceeding against the member  
6 or beneficiary is being conducted shall send written notice by certified  
7 mail, return receipt requested, to the executive director or executive  
8 secretary of the applicable retirement system when:

9 (1) A member or beneficiary is convicted of an offense described  
10 under § 24-1-302 or § 24-1-306;

11 (2) A member or beneficiary appeals his or her conviction for an  
12 offense described under § 24-1-302 or § 24-1-306; and

13 (3) The appellate court issues a final ruling upholding or  
14 reversing the conviction of the member or beneficiary for an offense  
15 described under § 24-1-302 or § 24-1-306.

16 (c) A written notice required under this section shall include any  
17 information that the applicable retirement system determines necessary for  
18 the retirement system to identify the account of the member or retirant and  
19 implement this subchapter.

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21 SECTION 4. Arkansas Code § 24-1-305 is amended to read as follows:

22 24-1-305. Notice to beneficiary.

23 (a)(1) The executive director or executive secretary of the applicable  
24 retirement system or his or her designee shall notify a member or beneficiary  
25 when benefits shall not be paid as provided under § 24-1-302 or § 24-1-306.

26 (2) The notice provided under subdivision (a)(1) of this section  
27 shall advise the member or beneficiary of:

28 (A) The specific facts supporting the retirement system's  
29 nonpayment of benefits; and

30 (B) His or her right to request a waiver of the forfeiture  
31 before the board of trustees of the retirement system.

32 (b)(1) A member or beneficiary shall request a waiver of the  
33 forfeiture by the board of trustees of the retirement system within thirty  
34 (30) days of receiving the notice required under subsection (a) of this  
35 section.

36 (2) A waiver request made under subdivision (b)(1) of this

1 section shall be submitted to the board of trustees of the retirement system  
2 in the manner specified by the applicable retirement system.

3 (c) Upon receiving a waiver request submitted under subdivision (b)(1)  
4 of this section, the board of trustees of the retirement system shall set and  
5 notify the member or beneficiary of the waiver hearing date.

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7 SECTION 5. Arkansas Code Title 24, Chapter 1, Subchapter 3, is amended  
8 to add an additional section to read as follows:

9 24-1-306. Forfeiture of member benefits.

10 (a) This section applies to all members of retirement systems on or  
11 after the effect date of this act.

12 (b) As used in this section, "benefit" does include employee  
13 contributions to the retirement system.

14 (c)(1) A member forfeits his or her right to benefit payments under a  
15 retirement system if he or she:

16 (A) Is convicted by a court of competent jurisdiction of a  
17 felony offense arising out a member's official actions while serving as a  
18 public employee; or

19 (B) Pleads guilty or nolo contendere to a felony offense  
20 arising out a member's official actions while serving as a public employee.

21 (2) If a retirement system finds that a member has forfeited his  
22 or her right to benefit payments from the retirement system under subdivision  
23 (c)(1) of this section, the retirement system shall not make benefit payments  
24 to the member.

25 (d)(1) If a member or retirant appeals his or her conviction for an  
26 offense described under subdivision (c)(1) of this section, benefit payments  
27 shall not be paid to the member or retirant unless the appeal results in a  
28 reversal of the conviction.

29 (2)(A) If the conviction of a member or retirant for an offense  
30 described under subdivision (c)(1) of this section is reversed, the  
31 retirement system shall make benefit payments to the member or retirant.

32 (B) If the conviction of a member or retirant for an  
33 offense described under subdivision (c)(1) of this section is affirmed, the  
34 retirement system shall not make benefit payments to the member or retirant.

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