

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2469 Session of 2012

INTRODUCED BY F. KELLER, BLOOM, BOYD, CUTLER, DeLUCA, GROVE,
HARRIS, HORNAMAN, KAUFFMAN, MARSICO, MASSER, MUNDY, TALLMAN,
VULAKOVICH, MOUL, NEILSON, SWANGER, METCALFE AND PERRY,
JUNE 13, 2012

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2012

AN ACT

1 Amending the act of July 8, 1978 (P.L.752, No.140), entitled "An
2 act providing for the forfeiture of the pensions of certain
3 public employees and authorizing the State or political
4 subdivision to garnish the pension benefits of certain public
5 officers and employees upon conviction of certain criminal
6 activity related to their office or position of employment,"
7 further providing for definitions, for disqualification and
8 forfeiture of benefits and for restitution for monetary loss; ←
9 AND REPEALING RETROACTIVITY PROVISION.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Section 2 of the act of July 8, 1978 (P.L.752,~~ ←
13 ~~No.140), known as the Public Employee Pension Forfeiture Act, is~~
14 ~~amended by adding a definition to read:~~

15 ~~Section 2. Definitions.~~

16 ~~The following words and phrases when used in this act shall~~
17 ~~have, unless the context clearly indicates otherwise, the~~
18 ~~meanings given to them in this section:~~

19 ~~* * *~~

20 ~~"Felony offense." Any crime classified as a felony under the~~

~~laws of Pennsylvania or a Federal offense punishable by a term
of imprisonment greater than one year.~~

* * *

SECTION 1. THE DEFINITION OF "CRIMES RELATED TO PUBLIC
OFFICE OR PUBLIC EMPLOYMENT" IN SECTION 2 OF THE ACT OF JULY 8,
1978 (P.L.752, NO.140), KNOWN AS THE PUBLIC EMPLOYEE PENSION
FORFEITURE ACT, AMENDED JULY 15, 2004 (P.L.733, NO.86), IS
AMENDED AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO
READ:

SECTION 2. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
MEANINGS GIVEN TO THEM IN THIS SECTION:

"CRIME OF VIOLENCE." ANY OF THE CRIMINAL OFFENSES SET FORTH
IN 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL HOMICIDE), AGGRAVATED
ASSAULT AS DEFINED IN 18 PA.C.S. § 2702 (RELATING TO AGGRAVATED
ASSAULT), RAPE AS DEFINED IN 18 PA.C.S. § 3121 (RELATING TO
RAPE), INVOLUNTARY DEVIATE SEXUAL INTERCOURSE AS DEFINED IN 18
PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
INTERCOURSE), AGGRAVATED INDECENT ASSAULT AS DEFINED IN 18
PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT), INCEST
AS DEFINED IN 18 PA.C.S. § 4302 (RELATING TO INCEST), SEXUAL
ASSAULT AS DEFINED IN 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL
ASSAULT), SEXUAL ABUSE OF CHILDREN AS DEFINED IN 18 PA.C.S. §
6312 (RELATING TO SEXUAL ABUSE OF CHILDREN), ARSON AS DEFINED IN
18 PA.C.S. § 3301(A) (RELATING TO ARSON AND RELATED OFFENSES),
KIDNAPPING AS DEFINED IN 18 PA.C.S. § 2901 (RELATING TO
KIDNAPPING), BURGLARY AS DEFINED IN 18 PA.C.S. § 3502(A)(1)
(RELATING TO BURGLARY), ROBBERY AS DEFINED IN 18 PA.C.S. § 3701
(RELATING TO ROBBERY), ROBBERY OF A MOTOR VEHICLE AS DEFINED IN

1 18 PA.C.S. § 3702 (RELATING TO ROBBERY OF MOTOR VEHICLE),
2 TERRORISM AS DEFINED IN 18 PA.C.S. § 2717 (RELATING TO
3 TERRORISM), OR CRIMINAL ATTEMPT, CRIMINAL CONSPIRACY OR CRIMINAL
4 SOLICITATION TO COMMIT ANY OF THE OFFENSES LISTED IN THIS
5 DEFINITION, OR AN EQUIVALENT CRIME UNDER THE LAWS OF THIS
6 COMMONWEALTH IN EFFECT AT THE TIME OF THE COMMISSION OF THAT
7 OFFENSE, OR AN EQUIVALENT CRIME IN ANY OTHER JURISDICTION. IN
8 ADDITION TO THE CRIMES SPECIFIED IN THIS DEFINITION, THE TERM
9 ALSO INCLUDES ALL CRIMINAL OFFENSES AS SET FORTH IN FEDERAL LAW
10 WHICH ARE SUBSTANTIALLY THE SAME AS THE CRIMES ENUMERATED IN
11 THIS DEFINITION.

12 ["CRIMES] "CRIME RELATED TO PUBLIC OFFICE OR PUBLIC
13 EMPLOYMENT." ANY OF THE CRIMINAL OFFENSES AS SET FORTH IN THE
14 FOLLOWING PROVISIONS OF TITLE 18 (CRIMES AND OFFENSES) OF THE
15 PENNSYLVANIA CONSOLIDATED STATUTES OR OTHER ENUMERATED STATUTE,
16 OR CRIMINAL ATTEMPT, CRIMINAL CONSPIRACY OR CRIMINAL
17 SOLICITATION TO COMMIT ANY OF THE OFFENSES LISTED IN THIS
18 DEFINITION, WHEN COMMITTED BY A PUBLIC OFFICIAL OR PUBLIC
19 EMPLOYEE THROUGH HIS PUBLIC OFFICE OR POSITION OR WHEN HIS
20 PUBLIC EMPLOYMENT PLACES HIM IN A POSITION TO COMMIT THE CRIME:

21 ANY OF THE CRIMINAL OFFENSES SET FORTH IN SUBCHAPTER B OF
22 CHAPTER 31 (RELATING TO DEFINITION OF OFFENSES) [WHEN THE
23 CRIMINAL OFFENSE IS COMMITTED BY A SCHOOL EMPLOYEE AS DEFINED IN
24 24 PA.C.S. § 8102 (RELATING TO DEFINITIONS) AGAINST A STUDENT].

25 SECTION 3921 (RELATING TO THEFT BY UNLAWFUL TAKING OR
26 DISPOSITION) WHEN THE CRIMINAL CULPABILITY REACHES THE LEVEL OF
27 A MISDEMEANOR OF THE FIRST DEGREE OR HIGHER.

28 SECTION 3922 (RELATING TO THEFT BY DECEPTION) WHEN THE
29 CRIMINAL CULPABILITY REACHES THE LEVEL OF A MISDEMEANOR OF THE
30 FIRST DEGREE OR HIGHER.

SECTION 3923 (RELATING TO THEFT BY EXTORTION) WHEN THE
CRIMINAL CULPABILITY REACHES THE LEVEL OF A MISDEMEANOR OF THE
FIRST DEGREE OR HIGHER.

SECTION 3926 (RELATING TO THEFT OF SERVICES) WHEN THE
CRIMINAL CULPABILITY REACHES THE LEVEL OF A MISDEMEANOR OF THE
FIRST DEGREE OR HIGHER.

SECTION 3927 (RELATING TO THEFT BY FAILURE TO MAKE REQUIRED
DISPOSITION OF FUNDS RECEIVED) WHEN THE CRIMINAL CULPABILITY
REACHES THE LEVEL OF A MISDEMEANOR OF THE FIRST DEGREE OR
HIGHER.

SECTION 4101 (RELATING TO FORGERY) .

SECTION 4104 (RELATING TO TAMPERING WITH RECORDS OR
IDENTIFICATION) .

SECTION 4113 (RELATING TO MISAPPLICATION OF ENTRUSTED
PROPERTY AND PROPERTY OF GOVERNMENT OR FINANCIAL INSTITUTIONS)
WHEN THE CRIMINAL CULPABILITY REACHES THE LEVEL OF MISDEMEANOR
OF THE SECOND DEGREE.

SECTION 4701 (RELATING TO BRIBERY IN OFFICIAL AND POLITICAL
MATTERS) .

SECTION 4702 (RELATING TO THREATS AND OTHER IMPROPER
INFLUENCE IN OFFICIAL AND POLITICAL MATTERS) .

SECTION 4902 (RELATING TO PERJURY) .

SECTION 4903(A) (RELATING TO FALSE SWEARING) .

SECTION 4904 (RELATING TO UNSWORN FALSIFICATION TO
AUTHORITIES) .

SECTION 4906 (RELATING TO FALSE REPORTS TO LAW ENFORCEMENT
AUTHORITIES) .

SECTION 4909 (RELATING TO WITNESS OR INFORMANT TAKING BRIBE) .

SECTION 4910 (RELATING TO TAMPERING WITH OR FABRICATING
PHYSICAL EVIDENCE) .

SECTION 4911 (RELATING TO TAMPERING WITH PUBLIC RECORDS OR INFORMATION) .

SECTION 4952 (RELATING TO INTIMIDATION OF WITNESSES OR VICTIMS) .

SECTION 4953 (RELATING TO RETALIATION AGAINST WITNESS, VICTIM OR PARTY) .

SECTION 5101 (RELATING TO OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERNMENTAL FUNCTION) .

SECTION 5301 (RELATING TO OFFICIAL OPPRESSION) .

SECTION 5302 (RELATING TO SPECULATING OR WAGERING ON OFFICIAL ACTION OR INFORMATION) .

65 PA.C.S. § 1103 (RELATING TO RESTRICTED ACTIVITIES) .

ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE "TAX REFORM CODE OF 1971."

IN ADDITION TO THE FOREGOING SPECIFIC CRIMES, THE TERM ALSO INCLUDES ALL CRIMINAL OFFENSES AS SET FORTH IN FEDERAL LAW SUBSTANTIALLY THE SAME AS THE CRIMES ENUMERATED HEREIN.

"FELONY OFFENSE." ANY CRIME CLASSIFIED AS A FELONY UNDER THE LAWS OF THIS COMMONWEALTH OR ANY OTHER JURISDICTION OR A FEDERAL OFFENSE PUNISHABLE BY A TERM OF IMPRISONMENT GREATER THAN ONE YEAR.

* * *

Section 2. Sections 3(a) and 4(a) of the act are amended to read:

Section 3. Disqualification and forfeiture of benefits.

(a) Notwithstanding any other provision of law, no public official or public employee nor any beneficiary designated by such public official or public employee shall be entitled to receive any retirement or other benefit or payment of any kind except a return of the contribution paid into any pension fund

1 without interest, if such public official or public employee is
2 convicted or pleads guilty or no defense to any felony offense
3 ~~or, ANY~~ crime related to public office or public employment OR
4 ANY CRIME OF VIOLENCE.

5 * * *

6 Section 4. Restitution for monetary loss.

7 (a) Whenever any public official or employee who is a member
8 of any pension system funded by public moneys is convicted or
9 pleads guilty or pleads no defense in any court of record to any
10 felony offense ~~or, ANY~~ crime related to a public office or
11 public employment OR ANY CRIME OF VIOLENCE, the court shall
12 order the defendant to make complete and full restitution to the
13 Commonwealth or political subdivision of any monetary loss
14 incurred as a result of the criminal offense.

15 * * *

16 SECTION 3. SECTION 7 OF THE ACT IS REPEALED:

17 [SECTION 7. RETROACTIVELY.

18 THE PROVISIONS OF THIS ACT SHALL BE RETROACTIVE TO DECEMBER
19 1, 1972.]

20 Section ~~3~~ 4. This act shall take effect ~~in 60 days~~
21 IMMEDIATELY.