
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 526 Session of
2017

INTRODUCED BY BOBACK, DEAN, NEILSON, WARD, BARRAR, SACCONI,
RYAN, PHILLIPS-HILL, TOEPEL, ROZZI, MULLERY, DEASY, WATSON,
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CUTLER, CORBIN, JAMES, DUSH, STAATS, COX, TALLMAN, SIMMONS,
DELOZIER AND EVERETT, FEBRUARY 17, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 17, 2017

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.

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

11 Section 1. The definitions of "crimes related to public
12 office or public employment" and "public official" or "public
13 employee" in section 2 of the act of July 8, 1978 (P.L.752,
14 No.140), known as the Public Employee Pension Forfeiture Act,
15 are amended and the section is amended by adding definitions to
16 read:

17 Section 2. Definitions.

18 The following words and phrases when used in this act shall
19 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 "Benefits administrator." A retirement board, pension fund
3 administrator or employer that manages, controls or maintains a
4 pension system for public officials or public employees.

5 "Crimes related to public office or public employment." Any
6 of the criminal offenses as set forth in the following
7 provisions of Title 18 (Crimes and Offenses) of the Pennsylvania
8 Consolidated Statutes or other enumerated statute when committed
9 by a public official or public employee through his public
10 office or position or when his public employment places him in a
11 position to commit the crime:

12 [Any of the criminal offenses set forth in Subchapter B
13 of Chapter 31 (relating to definition of offenses) when the
14 criminal offense is committed by a school employee [as
15 defined in 24 Pa.C.S. § 8102 (relating to definitions)]
16 against a student.]

17 Any of the criminal offenses involving sexual servitude
18 set forth in Subchapter B of Chapter 30 (relating to
19 prosecution of human trafficking), any of the criminal
20 offenses set forth in Subchapter B of Chapter 31 (relating to
21 definition of offenses), except for sections 3129 (relating
22 to sexual intercourse with animal) and 3130 (relating to
23 conduct relating to sex offenders), and sections 4302(b)
24 (relating to incest), 5902(b.1) (relating to prostitution and
25 related offenses), 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6)
26 (relating to obscene and other sexual materials and
27 performances), 6301(a)(1)(ii) (relating to corruption of
28 minors), 6312 (relating to sexual abuse of children), 6318
29 (relating to unlawful contact with minor) and 6320 (relating
30 to sexual exploitation of children), when the criminal

1 offense is committed by a school employee against a student.

2 Any of the criminal offenses involving sexual servitude
3 set forth in Subchapter B of Chapter 30 and any of the
4 criminal offenses set forth in Subchapter B of Chapter 31 if
5 the victim is under 18 years of age, except for sections 3129
6 and 3130.

7 Section 2713 (relating to neglect of care-dependent
8 person).

9 Section 3124.2 (relating to institutional sexual
10 assault).

11 Section 3922 (relating to theft by deception) when the
12 criminal culpability reaches the level of a misdemeanor of
13 the first degree or higher.

14 Section 3923 (relating to theft by extortion) when the
15 criminal culpability reaches the level of a misdemeanor of
16 the first degree or higher.

17 Section 3926 (relating to theft of services) when the
18 criminal culpability reaches the level of a misdemeanor of
19 the first degree or higher.

20 Section 3927 (relating to theft by failure to make
21 required disposition of funds received) when the criminal
22 culpability reaches the level of a misdemeanor of the first
23 degree or higher.

24 Section 4101 (relating to forgery).

25 Section 4104 (relating to tampering with records or
26 identification).

27 Section 4113 (relating to misapplication of entrusted
28 property and property of government or financial
29 institutions) when the criminal culpability reaches the level
30 of misdemeanor of the second degree.

1 Section 4304 (relating to endangering welfare of
2 children).

3 Section 4701 (relating to bribery in official and
4 political matters).

5 Section 4702 (relating to threats and other improper
6 influence in official and political matters).

7 Section 4902 (relating to perjury).

8 Section 4903(a) (relating to false swearing).

9 Section 4904 (relating to unsworn falsification to
10 authorities).

11 Section 4906 (relating to false reports to law
12 enforcement authorities).

13 Section 4909 (relating to witness or informant taking
14 bribe).

15 Section 4910 (relating to tampering with or fabricating
16 physical evidence).

17 Section 4911 (relating to tampering with public records
18 or information).

19 Section 4952 (relating to intimidation of witnesses or
20 victims).

21 Section 4953 (relating to retaliation against witness,
22 victim or party).

23 Section 5101 (relating to obstructing administration of
24 law or other governmental function).

25 Section 5123 (relating to contraband).

26 Section 5301 (relating to official oppression).

27 Section 5302 (relating to speculating or wagering on
28 official action or information).

29 Section 5902(b.1).

30 Section 5903(a) (3) (ii), (4) (ii), (5) (ii) or (6).

1 Section 6301(a)(1)(ii) (relating to corruption of
2 minors).

3 Section 6312.

4 Section 6318.

5 Section 6320.

6 Article III of the act of March 4, 1971 (P.L.6, No.2),
7 known as the "Tax Reform Code of 1971."

8 In addition to the foregoing specific crimes, the term also
9 includes all criminal offenses as set forth in Federal law
10 substantially the same as the crimes enumerated herein.

11 * * *

12 "Public official" or "public employee." Any person who is
13 elected or appointed to any public office or employment
14 including justices, judges and [justices of the peace]
15 magisterial district judges and members of the General Assembly
16 or who is acting or who has acted in behalf of the Commonwealth
17 or a political subdivision or any agency thereof including but
18 not limited to any person who has so acted and is otherwise
19 entitled to or is receiving retirement benefits whether that
20 person is acting on a permanent or temporary basis and whether
21 or not compensated on a full or part-time basis. This term shall
22 not include independent contractors nor their employees or
23 agents under contract to the Commonwealth or political
24 subdivision nor shall it apply to any person performing tasks
25 over which the Commonwealth or political subdivision has no
26 legal right of control. However, this term shall include all
27 persons who are members of any retirement system funded in whole
28 or in part by the Commonwealth or any political subdivision. For
29 the purposes of this act such persons are deemed to be engaged
30 in public employment.

1 "School employee." As defined in 24 Pa.C.S. § 8102 (relating
2 to definitions).

3 "Student." An individual who is:

4 (1) instructed by a school employee;

5 (2) supervised by a school employee;

6 (3) counseled by a school employee; or

7 (4) mentored by a school employee.

8 Section 2. Sections 3 and 4 of the act are amended to read:

9 Section 3. Disqualification and forfeiture of benefits.

10 (a) Notwithstanding any other provision of law, no public
11 official or public employee nor any beneficiary designated by
12 such public official or public employee shall be entitled to
13 receive any retirement or other benefit or payment of any kind
14 except a return of the contribution paid into any pension fund
15 without interest, if such public official or public employee is
16 [convicted] found guilty of a crime related to public office or
17 public employment or pleads guilty or no [defense] contest to
18 any crime related to public office or public employment.

19 (b) [The benefits shall be forfeited upon entry of a plea of
20 guilty or no defense or upon initial conviction and no payment
21 or partial payment shall be made during the pendency of an
22 appeal. If] The benefits shall be immediately forfeited upon the
23 public official's or public employee's entry of a plea of guilty
24 or no contest or upon initial entry of a jury verdict or
25 judicial order of guilty, with respect to any crimes related to
26 public office or public employment. The forfeiture shall not be
27 stayed or affected by pendency of an appeal or collateral attack
28 on the plea, verdict or order, regardless of whether a court has
29 entered or stayed the sentence pending the appeal or collateral
30 attack. If a plea, verdict or order is vacated and a verdict of

1 not guilty is rendered or the indictment or criminal information
2 finally dismissed, then the public official or public employee
3 shall be reinstated as a member of the pension fund or system
4 and shall be entitled to all benefits including those accruing
5 during the period of forfeiture if any. Such [conviction or]
6 plea, verdict or order shall be deemed to be a breach of a
7 public officer's or public employee's contract with his
8 employer.

9 (c) Each time a public officer or public employee is
10 elected, appointed, promoted, or otherwise changes a job
11 classification, there is a termination and renewal of the
12 contract for purposes of this act.

13 (d) The appropriate [retirement board] benefits
14 administrator may retain a member's contributions and interest
15 thereon for the purpose of paying any fine imposed upon the
16 member of the fund by a court of competent jurisdiction, or for
17 the repayment of any funds misappropriated by such member from
18 the Commonwealth or any political subdivision.

19 (e) Notwithstanding any other provision of this act, the
20 State Employees' Retirement Board shall not disburse any funds
21 to any person who has forfeited their right to benefits until
22 the Auditor General and the Attorney General have determined and
23 certified that there has been no loss to the Commonwealth as a
24 result of the conduct that resulted in forfeiture of benefits.
25 If there is a loss to the Commonwealth, the board shall pay the
26 amount of the loss to the State Treasurer from the member's
27 contributions and the interest thereon.

28 Section 4. Restitution for monetary loss.

29 (a) [Whenever] For any public official or public employee
30 who is a member of any pension system funded by public moneys

1 [is convicted or pleads guilty or pleads no defense], whenever
2 the public official or employee enters a plea of guilty or no
3 contest, in any court of record, to any crime related to a
4 public office or public employment or whenever there is initial
5 entry of a jury verdict or judicial order of guilty against the
6 public official or employee, in any court of record, to any
7 crime related to a public office or public employment, the court
8 shall order the defendant to make complete and full restitution
9 to the Commonwealth or political subdivision of any monetary
10 loss incurred as a result of the criminal offense.

11 (b) If the court fails to order such restitution the
12 Commonwealth, through the Attorney General, or a political
13 subdivision shall petition the court pronouncing sentence for an
14 order establishing the amount of restitution due it. If the
15 court does not have authority to order restitution, the
16 Commonwealth or the political subdivision shall bring an
17 original action for restitution.

18 (c) Notwithstanding any law or provision of law exempting
19 the pension account or benefits of any public official or public
20 employee from garnishment or attachment, whenever the court
21 shall order restitution or establish the amount of restitution
22 due after petition, all sums then credited to the defendant's
23 account or payable to the defendant including the contributions
24 shall be available to satisfy such restitution order.

25 (d) [The retirement board, administrator of the pension fund
26 or employer of the defendant] Upon the finding of guilty of a
27 public official or public employee, or upon the entry of a plea
28 of guilty or no contest in any court of record by a public
29 official or public employee, the court shall notify the
30 appropriate benefits administrator of such finding or entrance

1 of plea. The appropriate benefits administrator, upon being
2 served with a copy of the court's order, shall pay over all such
3 pension benefits, contributions or other benefits to the extent
4 necessary to satisfy the order of restitution.

5 Section 3. The addition of the definition of "school
6 employee" in section 2 of the act is intended to clarify the
7 scope of the act as amended by the act of July 15, 2004
8 (P.L.733, No.86).

9 Section 4. Except for the addition of the definition of
10 "school employee" in section 2 of the act, the amendment of
11 sections 2, 3 and 4 of the act shall apply to crimes related to
12 public office or public employment committed on and after the
13 effective date of this section.

14 Section 5. This act shall take effect immediately.