
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 113 Session of
2019

INTRODUCED BY DiSANTO, BROWNE, MENSCH, ALLOWAY, AUMENT, FOLMER,
LANGERHOLC, MARTIN, PHILLIPS-HILL, REGAN, STEFANO, VOGEL,
J. WARD AND WHITE, JANUARY 23, 2019

REFERRED TO FINANCE, JANUARY 23, 2019

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 a retroactivity provision.

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

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

18 Section 2. Definitions.

19 The following words and phrases when used in this act shall
20 have, unless the context clearly indicates otherwise, the
21 meanings given to them in this section:

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

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

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

15 Section 3922 (relating to theft by deception) when the
16 criminal culpability reaches the level of a misdemeanor of the
17 first degree or higher.

18 Section 3923 (relating to theft by extortion) when the
19 criminal culpability reaches the level of a misdemeanor of the
20 first degree or higher.

21 Section 3926 (relating to theft of services) when the
22 criminal culpability reaches the level of a misdemeanor of the
23 first degree or higher.

24 Section 3927 (relating to theft by failure to make required
25 disposition of funds received) when the criminal culpability
26 reaches the level of a misdemeanor of the first degree or
27 higher.

28 Section 4101 (relating to forgery).

29 Section 4104 (relating to tampering with records or
30 identification).

1 Section 4113 (relating to misapplication of entrusted
2 property and property of government or financial institutions)
3 when the criminal culpability reaches the level of misdemeanor
4 of the second degree.

5 [Section 4701 (relating to bribery in official and political
6 matters).]

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

9 [Section 4902 (relating to perjury).]

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

11 Section 4904 (relating to unsworn falsification to
12 authorities).

13 Section 4906 (relating to false reports to law enforcement
14 authorities).

15 [Section 4909 (relating to witness or informant taking
16 bribe).]

17 Section 4910 (relating to tampering with or fabricating
18 physical evidence).

19 Section 4911 (relating to tampering with public records or
20 information).

21 Section 4952 (relating to intimidation of witnesses or
22 victims).

23 Section 4953 (relating to retaliation against witness, victim
24 or party).

25 Section 5101 (relating to obstructing administration of law
26 or other governmental function).

27 Section 5301 (relating to official oppression).

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

30 Article III of the act of March 4, 1971 (P.L.6, No.2), known

1 as the "Tax Reform Code of 1971."

2 Any criminal offense under the laws of this Commonwealth
3 classified as a felony or punishable by a term of imprisonment
4 exceeding five years.

5 In addition to the foregoing specific crimes, the term also
6 includes all criminal offenses as set forth in Federal law and
7 the laws of another state substantially the same as the crimes
8 enumerated herein. The term also includes felony offenses under
9 18 U.S.C. §§ 371 (relating to conspiracy to commit offense or to
10 defraud United States) and 1341 (relating to frauds and
11 swindles).

12 * * *

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

1 in public employment.

2 Section 2. Section 3(a), (b) and (d) of the act are amended
3 and the section is amended by adding a subsection to read:

4 Section 3. Disqualification and forfeiture of benefits.

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

14 (b) [The benefits shall be forfeited upon entry of a plea of
15 guilty or no defense or upon initial conviction and no payment
16 or partial payment shall be made during the pendency of an
17 appeal. If] The benefits shall be forfeited retroactive to the
18 date of the public official's or public employee's plea of
19 guilty or no contest or upon initial entry of a jury verdict or
20 judicial order of guilty, with respect to any crimes related to
21 public office or public employment. The forfeiture shall not be
22 stayed or affected by pendency of an appeal or collateral attack
23 on the plea, verdict or order, regardless of whether a court has
24 entered or stayed the sentence pending the appeal or collateral
25 attack. If a plea, verdict or order is vacated and a verdict of
26 not guilty is rendered or the indictment or criminal information
27 finally dismissed, then the public official or public employee
28 shall be reinstated as a member of the pension fund or system
29 and shall be entitled to all benefits including those accruing
30 during the period of forfeiture if any. Such [conviction or]

1 plea, verdict or order shall be deemed to be a breach of a
2 public officer's or public employee's contract with his
3 employer.

4 * * *

5 (d) The appropriate [retirement board] benefits
6 administrator may retain a member's contributions and interest
7 thereon for the purpose of paying any fine imposed upon the
8 member of the fund by a court of competent jurisdiction, or for
9 the repayment of any funds misappropriated by such member from
10 the Commonwealth or any political subdivision.

11 * * *

12 (f) The Administrative Office of Pennsylvania Courts shall
13 provide the State Employees' Retirement System and the Public
14 School Employees' Retirement System the information necessary to
15 fulfill the duties under subsection (b).

16 Section 3. Section 4(a) and (d) of the act are amended to
17 read:

18 Section 4. Restitution for monetary loss.

19 (a) Whenever any public official or public employee who is a
20 member of any pension system funded by public moneys [is
21 convicted or pleads guilty or pleads no defense] enters a plea
22 of guilty or no contest in any court of record to any crime
23 related to a public office or public employment and which plea
24 is accepted by the court or whenever there is initial entry of a
25 jury verdict or judicial order of guilty against the public
26 official or public employee in any court of record to any crime
27 related to a public office or public employment, the court shall
28 order the defendant to make complete and full restitution to the
29 Commonwealth or political subdivision of any monetary loss
30 incurred as a result of the criminal offense.

1 * * *

2 (d) [The retirement board, administrator of the pension fund
3 or employer of the defendant] Until restitution is determined by
4 a court, the appropriate benefits administrator shall not make
5 payment of any refund of contributions applied for after the
6 date of such finding or entry to the public official or public
7 employee until the court notifies the appropriate benefits
8 administrator that no restitution is due. The court shall notify
9 the appropriate benefits administrator if restitution is or is
10 not ordered and the amount, if applicable. The appropriate
11 benefits administrator, upon being served with a copy of the
12 court's order, shall pay over all such pension benefits,
13 contributions or other benefits to the extent necessary to
14 satisfy the order of restitution.

15 Section 4. Section 7 of the act is repealed:

16 [Section 7. Retroactively.

17 The provisions of this act shall be retroactive to December
18 1, 1972.]

19 Section 5. The following provisions apply to crimes related
20 to public office or public employment committed on or after the
21 effective date of this section:

22 (1) The amendment or addition of the definitions of
23 "benefits administrator," "crimes related to public office or
24 public employment," and "public official" or "public
25 employee" in section 2 of the act.

26 (2) The amendment of section 3(a), (b) and (d) of the
27 act.

28 (3) The amendment of section 4(a) and (d) of the act.

29 (4) The repeal of section 7 of the act.

30 Section 6. This act shall take effect as follows:

1 (1) The addition of section 3(f) of the act shall take
2 effect in 60 days.

3 (2) The remainder of this act shall take effect
4 immediately.