

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 18 Session of  
2015

---

INTRODUCED BY PETRI, BARRAR, BLOOM, CUTLER, DIAMOND, EVERETT,  
GABLER, JAMES, LAWRENCE, MACKENZIE, MARSHALL, MICCARELLI,  
MURT, QUINN, SACCONI, STEPHENS, TOPPER AND WATSON,  
FEBRUARY 23, 2015

---

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 23, 2015

---

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 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 amended July 15, 2004 (P.L.733, No.86), are amended and the  
16 section is amended by adding a definition to 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  
20 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 bribe).

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

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

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

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

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

26 Section 5301 (relating to official oppression).

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

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

1 Any infamous crime as determined under section 7 of Article  
2 II of the Constitution of Pennsylvania.

3 In addition to the foregoing specific crimes, the term also  
4 includes all criminal offenses as set forth in Federal law that  
5 are substantially the same as the crimes enumerated herein.

6 \* \* \*

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

26 Section 2. Sections 3(a), (b) and (d) and 4(a) and (d) of  
27 the act are amended to read:

28 Section 3. Disqualification and forfeiture of benefits.

29 (a) Notwithstanding any other provision of law, no public  
30 official or public employee nor any beneficiary designated by

1 such public official or public employee shall be entitled to  
2 receive any retirement or other benefit or payment of any kind  
3 except a return of the contribution paid into any pension fund  
4 without interest, if such public official or public employee is  
5 [convicted] found guilty of a crime related to public office or  
6 public employment or pleads guilty or no [defense] contest to  
7 any crime related to public office or public employment.

8 (b) [The benefits shall be forfeited upon entry of a plea of  
9 guilty or no defense or upon initial conviction and no payment  
10 or partial payment shall be made during the pendency of an  
11 appeal. If] The benefits shall be immediately forfeited upon the  
12 public official's or public employee's entry of a plea of guilty  
13 or no contest or upon initial entry of a jury verdict or  
14 judicial order of guilty, with respect to any crimes related to  
15 public office or public employment. If the public official or  
16 public employee subsequently withdraws a plea of guilty or no  
17 contest prior to being sentenced, or the court refuses to accept  
18 the public official's or public employee's plea of guilty or no  
19 contest, the forfeiture shall be rescinded and benefits shall be  
20 paid to the public official or public employee until such time  
21 as a subsequent plea of guilty or no contest is entered or a  
22 jury verdict or judicial order of guilty with respect to any  
23 crimes related to public office or public employment is  
24 rendered. If a plea, verdict or order is vacated and a verdict  
25 of not guilty is rendered or the indictment or criminal  
26 information finally dismissed, then the public official or  
27 public employee shall be reinstated as a member of the pension  
28 fund or system and shall be entitled to all benefits including  
29 those accruing during the period of forfeiture if any. Such  
30 [conviction or] plea, verdict or order shall be deemed to be a

1 breach of a public officer's or public employee's contract with  
2 his employer.

3 \* \* \*

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

12 \* \* \*

13 Section 4. Restitution for monetary loss.

14 (a) Whenever any public official or public employee who is a  
15 member of any pension system funded by public moneys [is  
16 convicted or pleads guilty or pleads no defense] enters a plea  
17 of guilty or no contest in any court of record to any crime  
18 related to a public office or public employment or whenever  
19 there is initial entry of a jury verdict or judicial order of  
20 guilty against the public official or public employee in any  
21 court of record to any crime related to a public office or  
22 public employment, the court shall order the defendant to make  
23 complete and full restitution of any monetary loss incurred as a  
24 result of the criminal offense to any victim, including, but not  
25 limited to, the Commonwealth or a political subdivision of [any  
26 monetary loss incurred as a result of the criminal offense] the  
27 Commonwealth.

28 \* \* \*

29 (d) [The retirement board, administrator of the pension fund  
30 or employer of the defendant, upon being served with a copy of

1 the court's order, shall pay over all such pension benefits,  
2 contributions or other benefits to the extent necessary to  
3 satisfy the order of restitution.] Upon the finding of guilt of  
4 a public official or public employee, or upon the entry of a  
5 plea of guilty or no contest in any court of record by a public  
6 official or public employee, the court shall notify the  
7 appropriate benefits administrator of such finding or entrance  
8 of a plea. Upon being served with a copy of the court's notice,  
9 the appropriate benefits administrator shall retain all  
10 contributions and interest standing to the credit of the public  
11 official or public employee until such time as the appropriate  
12 benefits administrator receives a copy of a court order which  
13 orders the defendant to pay any fines or restitution, or both.  
14 If the defendant is ordered to pay any fines or restitution, or  
15 both, the appropriate benefits administrator shall pay over to  
16 the appropriate court all contributions and interest standing to  
17 the credit of the public official or public employee to the  
18 extent necessary to satisfy any fines or restitution, or both,  
19 ordered to be paid by the public official or public employee.

20 Section 3. This act shall take effect immediately.