

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 787 Session of  
2015

INTRODUCED BY BOBACK, DIAMOND, HELM, WATSON, TOEPEL, PETRI,  
HAHN, SIMMONS, GOODMAN, TALLMAN, KAVULICH, ROZZI, MURT,  
BENNINGHOFF, BARRAR, MOUL AND TOOHL, MARCH 13, 2015

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 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.

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

11 Section 1. The definition of "crimes related to public  
12 office or public employment" in section 2 of the act of July 8,  
13 1978 (P.L.752, No.140), known as the Public Employee Pension  
14 Forfeiture Act, amended July 15, 2004 (P.L.733, No.86), is  
15 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  
20 meanings given to them in this section:

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

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

13 Section 2713 (relating to neglect of care-dependent  
14 person).

15 Section 3124.2 (relating to institutional sexual  
16 assault).

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

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

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

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

30 Section 4101 (relating to forgery).

1           Section 4104 (relating to tampering with records or  
2           identification).

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

7           Section 4304 (relating to endangering welfare of  
8           children).

9           Section 4701 (relating to bribery in official and  
10          political matters).

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

13          Section 4902 (relating to perjury).

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

15          Section 4904 (relating to unsworn falsification to  
16          authorities).

17          Section 4906 (relating to false reports to law  
18          enforcement authorities).

19          Section 4909 (relating to witness or informant taking  
20          bribe).

21          Section 4910 (relating to tampering with or fabricating  
22          physical evidence).

23          Section 4911 (relating to tampering with public records  
24          or information).

25          Section 4952 (relating to intimidation of witnesses or  
26          victims).

27          Section 4953 (relating to retaliation against witness,  
28          victim or party).

29          Section 5101 (relating to obstructing administration of  
30          law or other governmental function).

1       Section 5123 (relating to contraband).

2       Section 5301 (relating to official oppression).

3       Section 5302 (relating to speculating or wagering on  
4       official action or information).

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

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

14      "Student." An individual who is:

15          (1) instructed by a school employee;

16          (2) supervised by a school employee;

17          (3) counseled by a school employee; or

18          (4) mentored by a school employee.

19      Section 2. Section 3 of the act is amended to read:

20      Section 3. Disqualification and forfeiture of benefits.

21      (a) Notwithstanding any other provision of law, no public  
22      official or public employee nor any beneficiary designated by  
23      such public official or public employee shall be entitled to  
24      receive any retirement or other benefit or payment of any kind  
25      except a return of the contribution paid into any pension fund  
26      without interest, if such public official or public employee is  
27      convicted or pleads guilty or no [defense] contest to any crime  
28      related to public office or public employment.

29      (b) [The benefits shall be forfeited upon entry of a plea of  
30      guilty or no defense or upon initial conviction and no payment

1 or partial payment shall be made during the pendency of an  
2 appeal. If] The benefits shall be immediately forfeited upon the  
3 public official's or public employee's entry of a plea of guilty  
4 or no contest or upon initial entry of a jury verdict or  
5 judicial order of guilty, with respect to any crimes related to  
6 public office or public employment. The forfeiture shall not be  
7 stayed or affected by pendency of an appeal or collateral attack  
8 on the plea, verdict or order, regardless of whether a court has  
9 entered or stayed the sentence pending the appeal or collateral  
10 attack. If a plea, verdict or order is vacated and a verdict of  
11 not guilty is rendered or the indictment or criminal information  
12 finally dismissed, then the public official or public employee  
13 shall be reinstated as a member of the pension fund or system  
14 and shall be entitled to all benefits including those accruing  
15 during the period of forfeiture if any. Such [conviction or]  
16 plea, verdict or order shall be deemed to be a breach of a  
17 public officer's or public employee's contract with his  
18 employer.

19 (c) Each time a public officer or public employee is  
20 elected, appointed, promoted, or otherwise changes a job  
21 classification, there is a termination and renewal of the  
22 contract for purposes of this act.

23 (d) The appropriate retirement board may retain a member's  
24 contributions and interest thereon for the purpose of paying any  
25 fine imposed upon the member of the fund, or for the repayment  
26 of any funds misappropriated by such member from the  
27 Commonwealth or any political subdivision.

28 (e) Notwithstanding any other provision of this act, the  
29 State Employees' Retirement Board shall not disburse any funds  
30 to any person who has forfeited their right to benefits until

1 the Auditor General and the Attorney General have determined and  
2 certified that there has been no loss to the Commonwealth as a  
3 result of the conduct that resulted in forfeiture of benefits.  
4 If there is a loss to the Commonwealth, the board shall pay the  
5 amount of the loss to the State Treasurer from the member's  
6 contributions and the interest thereon.

7 Section 3. Section 4 of the act, repealed in part October 5,  
8 1980 (P.L.693, No.142), is amended to read:

9 Section 4. Restitution for monetary loss.

10 (a) [Whenever] For any public official or employee who is a  
11 member of any pension system funded by public moneys [is  
12 convicted or pleads guilty or pleads no defense], whenever the  
13 public official or employee enters a plea of guilty or no  
14 contest, in any court of record, to any crime related to a  
15 public office or public employment or whenever there is initial  
16 entry of a jury verdict or judicial order of guilty against the  
17 public official or employee, in any court of record, to any  
18 crime related to a public office or public employment, the court  
19 shall order the defendant to make complete and full restitution  
20 to the Commonwealth or political subdivision of any monetary  
21 loss incurred as a result of the criminal offense.

22 (b) If the court fails to order such restitution the  
23 Commonwealth, through the Attorney General, or a political  
24 subdivision shall petition the court pronouncing sentence for an  
25 order establishing the amount of restitution due it. If the  
26 court does not have authority to order restitution, the  
27 Commonwealth or the political subdivision shall bring an  
28 original action for restitution.

29 (c) Notwithstanding any law or provision of law exempting  
30 the pension account or benefits of any public official or public

1 employee from garnishment or attachment, whenever the court  
2 shall order restitution or establish the amount of restitution  
3 due after petition, all sums then credited to the defendant's  
4 account or payable to the defendant including the contributions  
5 shall be available to satisfy such restitution order.

6 (d) The retirement board, administrator of the pension fund  
7 or employer of the defendant, upon being served with a copy of  
8 the court's order, shall pay over all such pension benefits,  
9 contributions or other benefits to the extent necessary to  
10 satisfy the order of restitution.

11 Section 4. The General Assembly finds and declares as  
12 follows:

13 (1) This section applies to the following provisions:

14 (i) The editorial change in the second paragraph of  
15 the definition of "crimes related to public office or  
16 public employment" in section 2 of the act.

17 (ii) The addition of the definitions of "school  
18 employee" and "student" in section 2 of the act.

19 (2) The provisions referred to in paragraph (1) are  
20 intended to clarify the scope of the act as amended by the  
21 act of July 15, 2004 (P.L.733, No.86), entitled "An act  
22 amending the act of July 8, 1978 (P.L.752, No.140), entitled  
23 'An act providing for the forfeiture of the pensions of  
24 certain public employees and authorizing the State or  
25 political subdivision to garnish the pension benefits of  
26 certain public officers and employees upon conviction of  
27 certain criminal activity related to their office or position  
28 of employment,' further defining 'crimes related to public  
29 office or public employment' to include certain sexual  
30 offenses committed by school employees against students."

1       Section 5. Except for the editorial change in the second  
2 paragraph of the definition of "crimes related to public office  
3 or public employment" in section 2 of the act and the addition  
4 of the definitions of "school employee" and "student" to section  
5 2 of the act, the amendment of sections 2, 3 and 4 of the act  
6 shall apply to crimes related to public office or public  
7 employment committed on and after the effective date of this  
8 section.

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

10           (1) The following provisions shall take effect  
11 immediately:

12               (i) The editorial change in the second paragraph of  
13 the definition of "crimes related to public office or  
14 public employment" in section 2 of the act.

15               (ii) The addition of the definitions of "school  
16 employee" and "student" to section 2 of the act.

17               (iii) Section 4 of this act.

18               (iv) This section.

19           (2) The remainder of this act shall take effect in 60  
20 days.