
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 59 Session of 2019

INTRODUCED BY FARRY, JAMES, SCHLOSSBERG, FEE, IRVIN, DIAMOND,
BERNSTINE, BARRAR, MEHAFFIE, MACKENZIE, OBERLANDER,
B. MILLER, F. KELLER, ROTHMAN, KAUFER, LAWRENCE, SAYLOR,
JONES, SIMMONS AND THOMAS, JANUARY 28, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 28, 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 a definition 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

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 of
13 Chapter 31 (relating to definition of offenses) when the
14 criminal offense is committed by a school employee as defined in
15 24 Pa.C.S. § 8102 (relating to definitions) against a student.

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

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

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

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

29 Section 4101 (relating to forgery).

30 Section 4104 (relating to tampering with records or

1 identification).

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

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

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

10 [Section 4902 (relating to perjury).]

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

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

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

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

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

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

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

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

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

28 Section 5301 (relating to official oppression).

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

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

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

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

13 * * *

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

1 the purposes of this act such persons are deemed to be engaged
2 in public employment.

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

5 Section 3. Disqualification and forfeiture of benefits.

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

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

1 during the period of forfeiture if any. Such [conviction or]
2 plea, verdict or order shall be deemed to be a breach of a
3 public officer's or public employee's contract with his
4 employer.

5 * * *

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

12 * * *

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

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

19 Section 4. Restitution for monetary loss.

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

1 incurred as a result of the criminal offense.

2 * * *

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

16 Section 4. 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 5. The following provisions apply to crimes related
21 to public office or public employment committed on or after the
22 effective date of this section:

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

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

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

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

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

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

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