

By: Fallon

H.B. No. 3916

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the ineligibility of educators or certain other school
3 personnel for benefits from certain public retirement systems
4 because of a conviction for an offense the victim of which is a
5 student.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter A, Chapter 814, Government Code, is
8 amended by adding Section 814.013 to read as follows:

9 Sec. 814.013. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
10 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

11 (a) This section applies only to a person who is a member or an
12 annuitant of the retirement system and is or was an employee of the
13 Texas Juvenile Justice Department in one of that department's
14 institutional schools who, as defined by rule of the board of
15 trustees, has or had regular, direct contact with students.

16 (b) To the extent ordered by a court under Subsection (k), a
17 person is not eligible to receive a full service retirement annuity
18 from the retirement system if the person is finally convicted of an
19 offense the victim of which is a student who is a minor and the
20 offense:

21 (1) arises from the person's employment described by
22 Subsection (a) while a member of the retirement system; and

23 (2) is punishable as a felony under the following
24 sections of the Penal Code:

1 (A) Section 15.01 (criminal attempt), Section
2 15.02 (criminal conspiracy), Section 15.03 (criminal
3 solicitation), or Section 15.031 (criminal solicitation of a
4 minor);

5 (B) Section 19.02 (murder), Section 19.03
6 (capital murder), Section 19.04 (manslaughter), or Section 19.05
7 (criminally negligent homicide);

8 (C) Section 20.02 (unlawful restraint);

9 (D) Section 20.03 (kidnapping) or Section 20.04
10 (aggravated kidnapping);

11 (E) Section 20.05 (smuggling of persons);

12 (F) Section 20A.02 (trafficking of persons);

13 (G) Section 21.02 (continuous sexual abuse of
14 young child or children);

15 (H) Section 21.11 (indecent with a child);

16 (I) Section 21.12 (improper relationship between
17 educator and student);

18 (J) Section 22.01 (assault);

19 (K) Section 22.011 (sexual assault) or Section
20 22.021 (aggravated sexual assault);

21 (L) Section 22.04 (injury to a child, elderly
22 individual, or disabled individual);

23 (M) Section 22.041 (abandoning or endangering
24 child);

25 (N) Section 33.021 (online solicitation of a
26 minor);

27 (O) Section 43.05 (compelling prostitution);

1 (P) Section 43.25 (sexual performance by a
2 child); or

3 (Q) Section 43.251 (employment harmful to
4 children).

5 (c) To the extent ordered by a court under Subsection (k),
6 the retirement system shall suspend making full annuity payments to
7 a person who is not eligible to receive a full service retirement
8 annuity under Subsection (b) on receipt by the retirement system of
9 notice and the terms of the person's conviction.

10 (d) The retirement system shall resume making full annuity
11 payments if the person made ineligible for a full annuity under
12 Subsection (b) is:

13 (1) subsequently found to be not guilty of the
14 offense; or

15 (2) entitled to compensation under Section
16 103.001(a)(2), Civil Practice and Remedies Code.

17 (e) The retirement system as applicable shall:

18 (1) for a person whose full annuity payments are
19 resumed under Subsection (d), reimburse the person for any portion
20 of the annuity payments withheld during a period of suspension; or

21 (2) restore the full eligibility of a person convicted
22 of an offense described by Subsection (b) to receive a service
23 retirement annuity, including the restoration of all service
24 credits accrued by the person before the conviction, if the person
25 satisfies the condition under Subsection (d)(1) or (2).

26 (f) Except as provided by Subsection (g), a person convicted
27 of an offense described by Subsection (b) whose eligibility for a

1 service retirement annuity is not fully restored under Subsection
2 (e)(2) is eligible to accrue service credit toward a service
3 retirement annuity from the retirement system if the person:

4 (1) was placed on community supervision for the
5 offense for which the person was convicted and:

6 (A) successfully completed the period of
7 community supervision; and

8 (B) received a discharge and dismissal under
9 Article 42A.701, Code of Criminal Procedure; or

10 (2) was sentenced to serve a term of confinement in a
11 penal institution for the offense for which the person was
12 convicted and completely discharged the person's sentence,
13 including any term of confinement and any period of parole or other
14 form of conditional release.

15 (g) In determining a person's eligibility for retirement
16 benefits under Subsection (f), the retirement system may include
17 only those service credits that were:

18 (1) accrued by the person before the person's
19 conviction for an offense described by Subsection (b) and remaining
20 after conviction of the offense; or

21 (2) earned after fulfilling the requirements under
22 Subsection (f).

23 (h) Except as provided by Subsection (i), a person who is
24 not eligible to receive a full service retirement annuity under
25 Subsection (b) is entitled to request and receive a refund of the
26 person's retirement annuity contributions, not including any
27 interest earned on those contributions. A person who accepts a

1 refund under this subsection terminates the person's membership in
2 the retirement system.

3 (i) Benefits payable to an alternate payee under Chapter
4 804, including a spouse or dependent child, are not affected by a
5 person's ineligibility to receive a full service retirement annuity
6 under Subsection (b).

7 (j) The board of trustees may adopt rules and procedures to
8 implement this section.

9 (k) A court shall:

10 (1) determine and order as applicable for a person
11 convicted of an offense described by Subsection (b) the amount by
12 which the person's:

13 (A) service retirement annuity payments are to be
14 reduced; or

15 (B) accrued service credits are to be reduced;
16 and

17 (2) notify the retirement system of the terms of a
18 conviction ordered under Subdivision (1).

19 SECTION 2. Subchapter A, Chapter 824, Government Code, is
20 amended by adding Section 824.009 to read as follows:

21 Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
22 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

23 (a) This section applies only to a person who is a member or an
24 annuitant of the retirement system and is or was an employee who, as
25 defined by rule of the board of trustees, has or had regular, direct
26 contact with students.

27 (b) To the extent ordered by a court under Subsection (k), a

1 person is not eligible to receive a full service retirement annuity
2 from the retirement system if the person is finally convicted of an
3 offense the victim of which is a student who is a minor and the
4 offense:

5 (1) arises from the person's employment described by
6 Subsection (a) while a member of the retirement system; and

7 (2) is punishable as a felony under the following
8 sections of the Penal Code:

9 (A) Section 15.01 (criminal attempt), Section
10 15.02 (criminal conspiracy), Section 15.03 (criminal
11 solicitation), or Section 15.031 (criminal solicitation of a
12 minor);

13 (B) Section 19.02 (murder), Section 19.03
14 (capital murder), Section 19.04 (manslaughter), or Section 19.05
15 (criminally negligent homicide);

16 (C) Section 20.02 (unlawful restraint);

17 (D) Section 20.03 (kidnapping) or Section 20.04
18 (aggravated kidnapping);

19 (E) Section 20.05 (smuggling of persons);

20 (F) Section 20A.02 (trafficking of persons);

21 (G) Section 21.02 (continuous sexual abuse of
22 young child or children);

23 (H) Section 21.11 (indecent with a child);

24 (I) Section 21.12 (improper relationship between
25 educator and student);

26 (J) Section 22.01 (assault);

27 (K) Section 22.011 (sexual assault) or Section

1 22.021 (aggravated sexual assault);

2 (L) Section 22.04 (injury to a child, elderly
3 individual, or disabled individual);

4 (M) Section 22.041 (abandoning or endangering
5 child);

6 (N) Section 33.021 (online solicitation of a
7 minor);

8 (O) Section 43.05 (compelling prostitution);

9 (P) Section 43.25 (sexual performance by a
10 child); or

11 (Q) Section 43.251 (employment harmful to
12 children).

13 (c) To the extent ordered by a court under Subsection (k),
14 the retirement system shall suspend making full annuity payments to
15 a person who is not eligible to receive a full service retirement
16 annuity under Subsection (b) on receipt by the retirement system of
17 notice and the terms of the person's conviction.

18 (d) The retirement system shall resume making full annuity
19 payments if the person made ineligible for a full annuity under
20 Subsection (b) is:

21 (1) subsequently found to be not guilty of the
22 offense; or

23 (2) entitled to compensation under Section
24 103.001(a)(2), Civil Practice and Remedies Code.

25 (e) The retirement system as applicable shall:

26 (1) for a person whose full annuity payments are
27 resumed under Subsection (d), reimburse the person for any portion

1 of the annuity payments withheld during a period of suspension; or
2 (2) restore the full eligibility of a person convicted
3 of an offense described by Subsection (b) to receive a service
4 retirement annuity, including the restoration of all service
5 credits accrued by the person before the conviction, if the person
6 satisfies the condition under Subsection (d)(1) or (2).

7 (f) Except as provided by Subsection (g), a person convicted
8 of an offense described by Subsection (b) whose eligibility for a
9 service retirement annuity is not fully restored under Subsection
10 (e)(2) is eligible to accrue service credit toward a service
11 retirement annuity from the retirement system if the person:

12 (1) was placed on community supervision for the
13 offense for which the person was convicted and:

14 (A) successfully completed the period of
15 community supervision; and

16 (B) received a discharge and dismissal under
17 Article 42A.701, Code of Criminal Procedure; or

18 (2) was sentenced to serve a term of confinement in a
19 penal institution for the offense for which the person was
20 convicted and completely discharged the person's sentence,
21 including any term of confinement and any period of parole or other
22 form of conditional release.

23 (g) In determining a person's eligibility for retirement
24 benefits under Subsection (f), the retirement system may include
25 only those service credits that were:

26 (1) accrued by the person before the person's
27 conviction for an offense described by Subsection (b) and remaining

1 after conviction of the offense; or

2 (2) earned after fulfilling the requirements under
3 Subsection (f).

4 (h) Except as provided by Subsection (i), a person who is
5 not eligible to receive a full service retirement annuity under
6 Subsection (b) is entitled to request and receive a refund of the
7 person's retirement annuity contributions, not including any
8 interest earned on those contributions. A person who accepts a
9 refund under this subsection terminates the person's membership in
10 the retirement system.

11 (i) Benefits payable to an alternate payee under Chapter
12 804, including a spouse or dependent child, are not affected by a
13 person's ineligibility to receive a full service retirement annuity
14 under Subsection (b).

15 (j) The board of trustees may adopt rules and procedures to
16 implement this section.

17 (k) A court shall:

18 (1) determine and order as applicable for a person
19 convicted of an offense described by Subsection (b) the amount by
20 which the person's:

21 (A) service retirement annuity payments are to be
22 reduced; or

23 (B) accrued service credits are to be reduced;
24 and

25 (2) notify the retirement system of the terms of a
26 conviction ordered under Subdivision (1).

27 SECTION 3. Sections 814.013 and 824.009, Government Code,

1 as added by this Act, apply only to an offense committed on or after
2 the effective date of rules adopted in accordance with Section 4 of
3 this Act. An offense committed before that date is governed by the
4 law in effect on the date the offense was committed, and the former
5 law is continued in effect for that purpose. For purposes of this
6 section, an offense was committed before the effective date of
7 rules adopted in accordance with Section 4 of this Act if any
8 element of the offense occurred before that date.

9 SECTION 4. (a) Not later than December 31, 2017, for the
10 purposes of Section 814.013(a), Government Code, as added by this
11 Act, the board of trustees of the Employees Retirement System of
12 Texas by rule shall define which employee positions at the
13 institutional schools of the Texas Juvenile Justice Department
14 include regular, direct contact with students.

15 (b) Not later than December 31, 2017, for the purposes of
16 Section 824.009(a), Government Code, as added by this Act, the
17 board of trustees of the Teacher Retirement System of Texas by rule
18 shall define which employee positions include regular, direct
19 contact with students.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2017.