

By: Taylor of Collin

S.B. No. 652

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the eligibility for service retirement annuities from
3 the Employees Retirement System of Texas or the Teacher Retirement
4 System of Texas of certain employees convicted of certain offenses.

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

6 SECTION 1. Article 42.01, Code of Criminal Procedure, is
7 amended by adding Section 12 to read as follows:

8 Sec. 12. In addition to the information described by
9 Section 1, the judgment should reflect affirmative findings entered
10 pursuant to Article 42.0192.

11 SECTION 2. Chapter 42, Code of Criminal Procedure, is
12 amended by adding Article 42.0192 to read as follows:

13 Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO
14 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
15 described by Section 814.013 or 824.009, Government Code, the judge
16 shall make an affirmative finding of fact and enter the affirmative
17 finding in the judgment in the case if the judge determines that the
18 offense committed was related to the defendant's employment
19 described by Section 814.013(a) or Section 824.009(a), Government
20 Code, while a member of the Employees Retirement System of Texas or
21 the Teacher Retirement System of Texas.

22 (b) A judge that makes the affirmative finding described by
23 this article shall make the determination and enter the order
24 required by Section 814.013(k) or 824.009(k), Government Code, as

1 applicable.

2 SECTION 3. Subchapter A, Chapter 814, Government Code, is
3 amended by adding Section 814.013 to read as follows:

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

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

11 (b) To the extent ordered by a court under Subsection (k), a
12 person is not eligible to receive a full service retirement annuity
13 from the retirement system if the person is finally convicted of an
14 offense the victim of which is a student who is a minor and the
15 offense:

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

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

20 (A) Section 15.01 (criminal attempt), Section
21 15.02 (criminal conspiracy), Section 15.03 (criminal
22 solicitation), or Section 15.031 (criminal solicitation of a
23 minor);

24 (B) Section 19.02 (murder), Section 19.03
25 (capital murder), Section 19.04 (manslaughter), or Section 19.05
26 (criminally negligent homicide);

27 (C) Section 20.02 (unlawful restraint);

- 1 (D) Section 20.03 (kidnapping) or Section 20.04
2 (aggravated kidnapping);
3 (E) Section 20.05 (smuggling of persons);
4 (F) Section 20A.02 (trafficking of persons);
5 (G) Section 21.02 (continuous sexual abuse of
6 young child or children);
7 (H) Section 21.11 (indecentcy with a child);
8 (I) Section 21.12 (improper relationship between
9 educator and student);
10 (J) Section 22.01 (assault);
11 (K) Section 22.011 (sexual assault) or Section
12 22.021 (aggravated sexual assault);
13 (L) Section 22.04 (injury to a child, elderly
14 individual, or disabled individual);
15 (M) Section 22.041 (abandoning or endangering
16 child);
17 (N) Section 33.021 (online solicitation of a
18 minor);
19 (O) Section 43.05 (compelling prostitution);
20 (P) Section 43.25 (sexual performance by a
21 child); or
22 (Q) Section 43.251 (employment harmful to
23 children).

24 (c) To the extent ordered by a court under Subsection (k),
25 the retirement system shall suspend making full annuity payments to
26 a person who is not eligible to receive a full service retirement
27 annuity under Subsection (b) on receipt by the retirement system of

1 notice and terms of the person's conviction.

2 (d) The retirement system shall resume making full annuity
3 payments if the person made ineligible for a full annuity under
4 Subsection (b):

5 (1) is subsequently found to be not guilty of the
6 offense; or

7 (2) meets the requirements for innocence under Section
8 103.001(a)(2), Civil Practice and Remedies Code.

9 (e) The retirement system as applicable shall:

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

13 (2) restore the full eligibility of a person convicted
14 of an offense described by Subsection (b) to receive a service
15 retirement annuity, including the restoration of all service
16 credits accrued by the person before the conviction, if the person
17 satisfies the condition under Subsection (d)(1) or (2).

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

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

25 (A) successfully completed the period of
26 community supervision; and

27 (B) received a discharge and dismissal under

1 Article 42A.701, Code of Criminal Procedure; or

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

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

10 (1) accrued by the person before the person's
11 conviction for an offense described by Subsection (b) and remaining
12 after conviction of the offense; or

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

15 (h) Except as provided by Subsection (i), a person who is
16 not eligible to receive a full service retirement annuity under
17 Subsection (b) is entitled to request and receive a refund of the
18 person's retirement annuity contributions, not including any
19 interest earned on those contributions. A person who accepts a
20 refund under this subsection terminates the person's membership in
21 the retirement system.

22 (i) Benefits payable to an alternate payee under Chapter
23 804, including a spouse or dependent child, are not affected by a
24 person's ineligibility to receive a full service retirement annuity
25 under Subsection (b).

26 (j) The board of trustees shall adopt rules and procedures
27 to implement this section.

1 (k) A court shall:

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

5 (A) service retirement annuity payments are to be
6 reduced; or

7 (B) accrued service credits are to be reduced;
8 and

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

11 SECTION 4. Subchapter A, Chapter 824, Government Code, is
12 amended by adding Section 824.009 to read as follows:

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

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

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

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

26 (2) is punishable as a felony under the following
27 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 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):

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

15 (2) meets the requirements for innocence 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 shall adopt rules and procedures
8 to 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 5. Sections 814.013 and 824.009, Government Code,
20 as added by this Act, apply only to an offense committed on or after
21 the effective date of rules adopted in accordance with Section 7 of
22 this Act. An offense committed before that date is governed by the
23 law in effect on the date the offense was committed, and the former
24 law is continued in effect for that purpose. For purposes of this
25 section, an offense was committed before the effective date of
26 rules adopted in accordance with Section 7 of this Act if any
27 element of the offense occurred before that date.

1 SECTION 6. Section 12, Article 42.01, Code of Criminal
2 Procedure, and Article 42.0192, Code of Criminal Procedure, as
3 added by this Act, apply only to a judgment of conviction entered on
4 or after the effective date of this Act.

5 SECTION 7. (a) Not later than December 31, 2017, for the
6 purposes of Section 814.013(a), Government Code, as added by this
7 Act, the board of trustees of the Employees Retirement System of
8 Texas by rule shall define which employee positions at the
9 institutional schools of the Texas Juvenile Justice Department
10 include regular, direct contact with students.

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

16 SECTION 8. This Act takes effect September 1, 2017.