

By: Taylor of Collin

S.B. No. 653

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain employees or annuitants convicted of certain felony offenses.

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

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

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

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

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

(b) A judge who makes the affirmative finding described by this article shall make the determination and provide the notice required by Section 814.013(1) or 824.009(1), Government Code, as applicable.

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

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

5 (a) In this section, "qualifying felony" means an offense that is  
6 punishable as a felony under the following sections of the Penal  
7 Code, or a federal offense that contains elements that are  
8 substantially similar to the elements of a listed felony offense:

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

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

15 (3) Section 20.02 (unlawful restraint);

16 (4) Section 20.03 (kidnapping) or Section 20.04  
17 (aggravated kidnapping);

18 (5) Section 20.05 (smuggling of persons);

19 (6) Section 20A.02 (trafficking of persons);

20 (7) Section 21.02 (continuous sexual abuse of young  
21 child or children);

22 (8) Section 21.11 (indecentcy with a child);

23 (9) Section 21.12 (improper relationship between  
24 educator and student);

25 (10) Section 22.01 (assault);

26 (11) Section 22.011 (sexual assault) or Section 22.021  
27 (aggravated sexual assault);

1           (12) Section 22.04 (injury to a child, elderly  
2 individual, or disabled individual);

3           (13) Section 22.041 (abandoning or endangering  
4 child);

5           (14) Section 33.021 (online solicitation of a minor);

6           (15) Section 43.05 (compelling prostitution);

7           (16) Section 43.25 (sexual performance by a child);

8           (17) Section 43.251 (employment harmful to children);

9 or

10           (18) Section 43.26 (possession or promotion of child  
11 pornography).

12           (b) This section applies only to a person who is a member or  
13 an annuitant of the retirement system and is or was an employee of  
14 the Texas Juvenile Justice Department in one of that department's  
15 institutional schools.

16           (c) Except as provided by Subsection (e), a person is not  
17 eligible to receive a service retirement annuity from the  
18 retirement system if the person is convicted of a qualifying felony  
19 the victim of which is a student.

20           (d) The retirement system shall suspend payments of an  
21 annuity to a person who is not eligible to receive a service  
22 retirement annuity under Subsection (c), as determined by the  
23 retirement system, on receipt by the retirement system of:

24           (1) notice of a conviction for a qualifying felony  
25 under Subsection (f) or (l);

26           (2) notice of a conviction for a qualifying felony  
27 from a district court or district attorney; or

1           (3) any other information the retirement system  
2 determines by rule is sufficient to establish a conviction for a  
3 qualifying felony.

4           (e) A person whose conviction is overturned on appeal or who  
5 meets the requirements for innocence under Section 103.001(a)(2),  
6 Civil Practice and Remedies Code:

7           (1) is entitled to receive an amount equal to the  
8 accrued total of payments and interest earned on the payments  
9 withheld during the suspension period; and

10           (2) may resume receipt of annuity payments on payment  
11 to the retirement system of an amount equal to the contributions  
12 refunded to the person under Subsection (g).

13           (f) Not later than the 30th day after the date of a person's  
14 conviction for a qualifying felony, the school at which the person  
15 was employed shall provide written notice of the conviction to the  
16 retirement system. The notice must comply with rules adopted by the  
17 board of trustees under Subsection (k).

18           (g) A person who is not eligible to receive a service  
19 retirement annuity under Subsection (c) is entitled to a refund of  
20 the person's retirement annuity contributions, including interest  
21 earned on those contributions.

22           (h) Benefits payable to an alternate payee under Chapter 804  
23 who is recognized by a domestic relations order established before  
24 September 1, 2017, are not affected by a person's ineligibility to  
25 receive a retirement annuity under Subsection (c).

26           (i) On conviction of a person for a qualifying felony, a  
27 court may, in the interest of justice and in the same manner as in a

1 divorce proceeding, award half of the service retirement annuity  
2 forfeited by the person as the separate property of an innocent  
3 spouse if the annuity is partitioned or exchanged by written  
4 agreement of the spouses as provided by Subchapter B, Chapter 4,  
5 Family Code. The amount awarded to the innocent spouse may not be  
6 converted to community property.

7 (j) Ineligibility for a retirement annuity under this  
8 section does not impair a person's right to any other retirement  
9 benefit for which the person is eligible.

10 (k) The board of trustees of the retirement system shall  
11 adopt rules and procedures to implement this section.

12 (l) A court shall notify the retirement system of the terms  
13 of a person's conviction for a qualifying felony.

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

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

18 (a) In this section, "qualifying felony" means an offense that is  
19 punishable as a felony under the following sections of the Penal  
20 Code, or a federal offense that contains elements that are  
21 substantially similar to the elements of a listed felony offense:

22 (1) Section 15.01 (criminal attempt), Section 15.02  
23 (criminal conspiracy), Section 15.03 (criminal solicitation), or  
24 Section 15.031 (criminal solicitation of a minor);

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

- 1           (3) Section 20.02 (unlawful restraint);  
2           (4) Section 20.03 (kidnapping) or Section 20.04  
3 (aggravated kidnapping);  
4           (5) Section 20.05 (smuggling of persons);  
5           (6) Section 20A.02 (trafficking of persons);  
6           (7) Section 21.02 (continuous sexual abuse of young  
7 child or children);  
8           (8) Section 21.11 (indecentcy with a child);  
9           (9) Section 21.12 (improper relationship between  
10 educator and student);  
11           (10) Section 22.01 (assault);  
12           (11) Section 22.011 (sexual assault) or Section 22.021  
13 (aggravated sexual assault);  
14           (12) Section 22.04 (injury to a child, elderly  
15 individual, or disabled individual);  
16           (13) Section 22.041 (abandoning or endangering  
17 child);  
18           (14) Section 33.021 (online solicitation of a minor);  
19           (15) Section 43.05 (compelling prostitution);  
20           (16) Section 43.25 (sexual performance by a child);  
21           (17) Section 43.251 (employment harmful to children);  
22 or  
23           (18) Section 43.26 (possession or promotion of child  
24 pornography).  
25           (b) This section applies only to a person who is a member or  
26 an annuitant of the retirement system and is or was an employee of  
27 the public school system.

1       (c) Except as provided by Subsection (e), a person is not  
2 eligible to receive a service retirement annuity from the  
3 retirement system if the person is convicted of a qualifying felony  
4 the victim of which is a student.

5       (d) The retirement system shall suspend payments of an  
6 annuity to a person who is not eligible to receive a service  
7 retirement annuity under Subsection (c), as determined by the  
8 retirement system, on receipt by the retirement system of:

9           (1) notice of a conviction for a qualifying felony  
10 under Subsection (f) or (l);

11           (2) notice of a conviction for a qualifying felony  
12 from a district court or district attorney; or

13           (3) any other information the retirement system  
14 determines by rule is sufficient to establish a conviction for a  
15 qualifying felony.

16       (e) A person whose conviction is overturned on appeal or who  
17 meets the requirements for innocence under Section 103.001(a)(2),  
18 Civil Practice and Remedies Code:

19           (1) is entitled to receive an amount equal to the  
20 accrued total of payments and interest earned on the payments  
21 withheld during the suspension period; and

22           (2) may resume receipt of annuity payments on payment  
23 to the retirement system of an amount equal to the contributions  
24 refunded to the person under Subsection (g).

25       (f) Not later than the 30th day after the date of a person's  
26 conviction for a qualifying felony, the school at which the person  
27 was employed shall provide written notice of the conviction to the

1 retirement system. The notice must comply with rules adopted by the  
2 board of trustees under Subsection (k).

3 (g) A person who is not eligible to receive a service  
4 retirement annuity under Subsection (c) is entitled to a refund of  
5 the person's retirement annuity contributions, including interest  
6 earned on those contributions.

7 (h) Benefits payable to an alternate payee under Chapter 804  
8 who is recognized by a domestic relations order established before  
9 September 1, 2017, are not affected by a person's ineligibility to  
10 receive a retirement annuity under Subsection (c).

11 (i) On conviction of a person for a qualifying felony, a  
12 court may, in the interest of justice and in the same manner as in a  
13 divorce proceeding, award half of the service retirement annuity  
14 forfeited by the person as the separate property of an innocent  
15 spouse if the annuity is partitioned or exchanged by written  
16 agreement of the spouses as provided by Subchapter B, Chapter 4,  
17 Family Code. The amount awarded to the innocent spouse may not be  
18 converted to community property.

19 (j) Ineligibility for a retirement annuity under this  
20 section does not impair a person's right to any other retirement  
21 benefit for which the person is eligible.

22 (k) The board of trustees of the retirement system shall  
23 adopt rules and procedures to implement this section.

24 (l) A court shall notify the retirement system of the terms  
25 of a person's conviction of a qualifying felony.

26 SECTION 5. Section 12, Article 42.01, Code of Criminal  
27 Procedure, and Article 42.0192, Code of Criminal Procedure, as



1 added by this Act, apply only to a judgment of conviction entered on  
2 or after the effective date of this Act.

3 SECTION 6. (a) Not later than December 31, 2017, the board  
4 of trustees of the Employees Retirement System of Texas shall adopt  
5 the rules necessary to implement Section 814.013, Government Code,  
6 as added by this Act.

7 (b) Not later than December 31, 2017, the board of trustees  
8 of the Teacher Retirement System of Texas shall adopt the rules  
9 necessary to implement Section 824.009, Government Code, as added  
10 by this Act.

11 SECTION 7. Sections 814.013 and 824.009, Government Code,  
12 as added by this Act, apply only to an offense committed on or after  
13 the effective date of rules adopted in accordance with those  
14 sections. An offense committed before that date is governed by the  
15 law in effect on the date the offense was committed, and the former  
16 law is continued in effect for that purpose. For purposes of this  
17 section, an offense was committed before the effective date of  
18 rules adopted in accordance with Sections 814.013 and 824.009,  
19 Government Code, as added by this Act, if any element of the offense  
20 occurred before that date.

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