

# ASSEMBLY, No. 4586

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 25, 2020

**Sponsored by:**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

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**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Repeals provision that requires court-ordered pension forfeiture upon conviction of public employee for certain crimes; requires retirement system to consider for pension forfeiture length and duration of misconduct or crime in relation to public employee's length of service.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 8/27/2020)

1   **AN ACT** concerning the forfeiture of a pension for misconduct or a  
2       crime committed by a public officer or employee, and amending  
3       P.L.1995, c.408 and repealing section 2 of P.L.2007, c.49.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8       1. Section 1 of P.L.1995, c.408 (C.43:1-3) is amended to read  
9 as follows:

10      1. a. The receipt of a public pension or retirement benefit is  
11 hereby expressly conditioned upon the rendering of honorable  
12 service by a public officer or employee.

13      b. The board of trustees of any State or locally-administered  
14 pension fund or retirement system created under the laws of this  
15 State is authorized to order the forfeiture of all or part of the earned  
16 service credit or pension or retirement benefit of any member of the  
17 fund or system for misconduct occurring during the member's  
18 public service which renders the member's service or part thereof  
19 dishonorable **【and to implement any pension forfeiture ordered by a**  
20 **court pursuant to section 2 of P.L.2007, c.49 (C.43:1-3.1)】.**

21      c. In evaluating a member's misconduct to determine whether it  
22 constitutes a breach of the condition that public service be  
23 honorable and whether forfeiture or partial forfeiture of earned  
24 service credit or earned pension or retirement benefits is  
25 appropriate, the board of trustees shall consider and balance the  
26 following factors in view of the goals to be achieved under the  
27 pension laws:

- 28       (1) the member's length of service;  
29       (2) the basis for retirement;  
30       (3) the extent to which the member's pension has vested;  
31       (4) the duties of the particular member;  
32       (5) the member's public employment history and record covered  
33 under the retirement system;  
34       (6) any other public employment or service;  
35       (7) the nature of the misconduct or crime, including the gravity  
36 or substantiality of the offense, whether it was a single or multiple  
37 offense and whether it was continuing or isolated, and the duration  
38 of the misconduct or crime in relation to the member's length of  
39 service;  
40       (8) the relationship between the misconduct and the member's  
41 public duties;  
42       (9) the quality of moral turpitude or the degree of guilt or  
43 culpability, including the member's motives and reasons, personal  
44 gain and similar considerations;  
45       (10) the availability and adequacy of other penal sanctions; and

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (11) other personal circumstances relating to the member which  
2 bear upon the justness of forfeiture.

3 d. Whenever a board of trustees determines, pursuant to this  
4 section, that a partial forfeiture of earned service credit or earned  
5 pension or retirement benefits is warranted, it shall order that  
6 benefits be calculated as if the accrual of pension rights terminated  
7 as of the date the misconduct first occurred or, if termination as of  
8 that date would in light of the nature and extent of the misconduct  
9 result in an excessive pension or retirement benefit or in an  
10 excessive forfeiture, a date reasonably calculated to impose a  
11 forfeiture that reflects the nature and extent of the misconduct and  
12 the years of honorable service.

13 (cf: P.L.2007, c.49, s.1)

14  
15 2. Section 2 of P.L.2007, c.49 (C.43:1-3.1) is repealed.

16  
17 3. This act shall take effect immediately.

18  
19  
20 STATEMENT

21  
22 This bill repeals the current law that requires a court to order a  
23 pension forfeiture when a person who holds any public office or  
24 employment with the State or a political subdivision of the State is  
25 convicted of any of 23 listed crimes or of a substantially similar  
26 crime under the laws of another state or the United States. The law  
27 requires forfeiture of all of the pension earned as a member of any  
28 State or locally-administered pension fund or retirement system in  
29 which the person participated at the time of the commission of the  
30 crime and which covered the office or employment involved in the  
31 crime. The law requires the crime to have been directly related to  
32 the person's performance in, or circumstances flowing from, the  
33 specific public office or employment held by the person.

34 Full or partial pension forfeiture will remain an option for the  
35 board of trustees of any State or locally-administered pension fund  
36 or retirement system created under the laws of this State. Currently,  
37 a board is authorized to order the forfeiture of all or part of the  
38 earned service credit or pension or retirement benefit of any  
39 member of the fund or system for misconduct occurring during the  
40 member's public service which renders the member's service or part  
41 thereof dishonorable. In evaluating a member's misconduct to  
42 determine whether it constitutes a breach of the condition that  
43 public service be honorable and whether forfeiture or partial  
44 forfeiture of earned service credit or earned pension or retirement  
45 benefits is appropriate, the board of trustees is to consider and  
46 balance the following factors in view of the goals to be achieved  
47 under the pension laws:

48 (1) the member's length of service;

- 1       (2) the basis for retirement;
- 2       (3) the extent to which the member's pension has vested;
- 3       (4) the duties of the particular member;
- 4       (5) the member's public employment history and record covered
- 5 under the retirement system;
- 6       (6) any other public employment or service;
- 7       (7) the nature of the misconduct or crime, including the gravity
- 8 or substantiality of the offense, whether it was a single or multiple
- 9 offense and whether it was continuing or isolated;
- 10      (8) the relationship between the misconduct and the member's
- 11 public duties;
- 12      (9) the quality of moral turpitude or the degree of guilt or
- 13 culpability, including the member's motives and reasons, personal
- 14 gain and similar considerations;
- 15      (10) the availability and adequacy of other penal sanctions; and
- 16      (11) other personal circumstances relating to the member which
- 17 bear upon the justness of forfeiture.
- 18      This bill amends this current law to require a board of trustees to
- 19 consider also the duration of the crime or misconduct in relation to
- 20 the member's length of service.