

ASSEMBLY, No. 3766
STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

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District 5 (Camden and Gloucester)

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**Assemblywomen Lopez, Pintor Marin, Mosquera, Lampitt, Downey, Assemblyman Houghtaling,
Assemblywomen Timberlake, Vainieri Huttle and Speight**

SYNOPSIS

Requires public officer or employee to forfeit pension upon conviction of harassment, sexual contact, lewdness, or sexual assault when offense involves or touches upon public office or employment.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning forfeiture of public pensions for conviction of certain crimes involving or touching such public office or employment and amending P.L.2007, c.49.

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

1. Section 2 of P.L.2007, c.49 (C.43:1-3.1) is amended to read as follows:

2. a. A person who holds or has held any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of any crime set forth in subsection b. of this section, or of a substantially similar offense under the laws of another state or the United States which would have been such a crime under the laws

of this State, which crime or offense involves or touches such office, position or employment, shall forfeit all of the pension or retirement benefit earned as a member of any State or locally-administered pension fund or retirement system in which he participated at the time of the commission of the offense and which covered the office, position or employment involved in the offense. As used in this section, a crime or offense that "involves or touches such office, position or employment" means that the crime or offense was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person.

b. Subsection a. of this section applies to a conviction of any of the following crimes:

- (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal coercion;
- (2) N.J.S.2C:20-4, theft by deception, if the amount involved exceeds \$10,000;
- (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;
- (4) N.J.S.2C:20-9, theft by failure to make required disposition of property received, if the amount involved exceeds \$10,000;
- (5) N.J.S.2C:21-10, commercial bribery;
- (6) Section 3 of P.L.1994, c.121 (C.2C:21-25), money laundering;
- (7) Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract payment claims;
- (8) N.J.S.2C:27-2, bribery in official matters;
- (9) N.J.S.2C:27-3, threats and other improper influence in official and political matters;
- (10) Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful official business transaction where interest is involved;
- (11) Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or receipt of unlawful benefit by public servant for official behavior;
- (12) Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of unlawful benefit to public servant for official behavior;
- (13) N.J.S.2C:28-1, perjury;
- (14) N.J.S.2C:28-5, tampering with witnesses;
- (15) N.J.S.2C:28-7, tampering with public records or information;
- (16) N.J.S.2C:29-4, compounding;
- (17) N.J.S.2C:30-2, official misconduct;
- (18) N.J.S.2C:30-3, speculating or wagering on official action or information; [or]
- (19) Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official misconduct;
- ~~(20) N.J.S.2C:33-4, harassment;~~
- ~~(21) N.J.S.2C:14-2, sexual assault;~~
- ~~(22) N.J.S.2C:14-3, sexual contact; or~~
- ~~(23) N.J.S.2C:14-4, lewdness.~~

c. A court of this State shall enter an order of pension forfeiture pursuant to this section:

- (1) Immediately upon a finding of guilt by the trier of fact or a plea of guilty entered in any court of this State unless the court, for good cause shown, orders a stay of the pension forfeiture pending a

hearing on the merits at the time of sentencing; or

(2) Upon application of the county prosecutor or the Attorney General, when the pension forfeiture is based upon a conviction of an offense under the laws of another state or of the United States. An order of pension forfeiture pursuant to this paragraph shall be deemed to have taken effect on the date the person was found guilty by the trier of fact or pled guilty to the offense.

d. No court shall grant a stay of an order of pension forfeiture pending appeal of a conviction or pension forfeiture order unless the court is clearly convinced that there is a substantial likelihood of success on the merits. If the conviction be reversed or the order of pension forfeiture be overturned, his pension rights and benefits shall be restored from the date of pension forfeiture.

e. Nothing in this section shall be deemed to preclude the authority of the board of trustees of any State or locally-administered pension fund or retirement system created under the laws of this State from ordering the forfeiture of all or part of the earned service credit or pension or retirement benefit of any member of the fund or system for misconduct occurring during the member's public service pursuant to the provisions of P.L.1995, c.408 (C.43:1-3 et seq.), including in a case where the court does not enter an order of forfeiture pursuant to this section.

(cf: P.L.2007, c.49, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill would require a person who holds or has held any public office, position, or employment to forfeit the person's pension or retirement benefit if the person is convicted of harassment, sexual contact, lewdness, or sexual assault when the offense is related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person.

Under current law, a person who holds or has held any public office, position, or employment is required to forfeit all of the person's pension or retirement benefit upon conviction of certain enumerated crimes involving or touching such office, position or employment. This bill would add the crimes of harassment, sexual contact, lewdness, and sexual assault to that list of crimes.