§17062. Forfeiture of benefits for crime; restitution

1. Crime. If a member is convicted of or pleads guilty or no contest to a crime committed in connection with the member's public office or public employment or to a crime the member's position placed the member in a position to commit, the member's right to receive any benefit or payment of any kind under this Part is subject to the following.

A. If the penalties for the crime are greater than or equal to the penalties for a Class C crime, the court may order the forfeiture of the member's right to receive any benefit or payment of any kind under this Part except a return of the amount contributed by the member to the retirement system without interest, subject to paragraph B. [PL 2011, c. 606, §12 (NEW).]

B. If the court orders the member to make restitution to the State or any political subdivision of the State for monetary loss incurred as a result of the crime, the court may order that restitution payments be made by the retirement system from the amount contributed by the member to the retirement system. [PL 2011, c. 606, §12 (NEW).]

C. Subject to the requirements of subsection 2, the court may award to the member's spouse, dependent or former spouse as an alternate payee some or all of the amount that, but for the forfeiture under paragraph A, may otherwise be payable. Upon order of the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this paragraph. In determining the award, the court shall consider the totality of the circumstances, including, but not limited to:

(1) The role, if any, of the member's spouse, dependent or former spouse in connection with the crime;

(2) The degree of knowledge, if any, possessed by the member's spouse, dependent or former spouse in connection with the crime; and

(3) The extent to which the spouse, dependent or former spouse was relying on the forfeited benefits. [PL 2011, c. 606, §12 (NEW).]

[PL 2011, c. 606, §12 (NEW).]

2. Benefit award requirements. An award ordered under subsection 1, paragraph C may not require the retirement system to:

A. Provide a type or form of benefit or an option not otherwise provided by the retirement system; [PL 2011, c. 606, §12 (NEW).]

B. Provide increased benefits determined on the basis of actuarial value; or [PL 2011, c. 606, §12 (NEW).]

C. Take an action contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent or former spouse. [PL 2011, c. 606, §12 (NEW).]

[PL 2011, c. 606, §12 (NEW).]

SECTION HISTORY

PL 2011, c. 606, §12 (NEW).

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