

## Selected State Policies Governing Termination or Garnishment of Public Pensions



Alabama	Act 2012-412 requires members of TRS, ERS and JRF convicted of a felony offense related to their public position to forfeit their right to lifetime retirement benefits. However, the employee would receive a refund of his or her retirement contributions. This legislation is not retroactive and does not affect any member that has already been found guilty of an offense.
Alaska	A public officer, legislator, or a person employed as a legislative director, who is convicted of a federal or state felony, bribery, receiving a bribe, perjury, subornation of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or evasion may not receive a state pension benefit if the offense was in connection with the person's duties. Pension benefits and employee contributions that accrue to a person the date of the person's commission of the offense are not diminished or impaired. The act excludes insurance, voluntary wage reductions, involuntary wage reductions, or supplemental or health benefits and member or employee contributions from the forfeiture, and provides protection for certain spousal or dependent benefits, depending upon circumstances including spousal complicity. The law also provides that a person whose offense results in a pension forfeiture may not subsequently accrue service credit in public service.
Arkansas	A retirement system beneficiary convicted of murdering a member of a public retirement system in the state forfeits their right to a benefit from that system.
California	<p>This law, applicable to any person elected or reelected to public office on or after Jan. 1, 2006, provides for forfeiture of all rights and benefits under, and any membership in, any public retirement system in which the person is a member, effective on the date of final conviction for certain felonies.</p> <ul style="list-style-type: none"> <li>• Applies to any felony involving accepting or giving, or offering to give any bribe; the embezzlement of public money; extortion or theft of public money; perjury; or conspiracy to commit any of these crimes</li> <li>• Applies only if the felony arises directly out of the public officer's official duties</li> </ul> <p>Forfeiture only of that portion of the rights and benefits accrued on or after Jan. 1, 2006, on account of the service in the elected public office held when the felony occurred</p> <ul style="list-style-type: none"> <li>• Provides for return of employee contributions without interest</li> <li>• If the governing body of the elected public officer's employer authorizes the public officer to receive the rights and benefits despite the felony conviction, then no forfeiture occurs.</li> </ul>
Colorado	Public pension assets may be garnished “for restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or in the event of a judgment for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain.” Per COPERA: This statute “does not <u>explicitly</u> require a Colorado member to forfeit their PERA benefit.”
Connecticut	A state judge may revoke or reduce state and municipal pensions for criminal convictions arising out of on-the-job corruption regarding embezzlement of public funds; felonious theft from the state, a municipality or quasi-public agency; bribery; or felonies committed through the misuse of a government office or job. The law requires that the state attorney general apply for a court order to reduce or revoke a pension. Effective October 1, 2008.
Delaware	A surviving beneficiary convicted of murdering a member of a public retirement system in the state forfeits their right to a survivor benefit.
District of Columbia	No law enabling forfeiture of a public pension.

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Florida	Members of public pension plans must forfeit their entitlement to future retirement benefits when they commit certain crimes, including commission of any felony under laws governing misuse of public office, any felony against a victim younger than 16 years of age, or any felony involving sexual battery against a victim younger than 18 years of age, or by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.
Georgia	Georgia law stipulates that if a public employee commits a public employment related crime on or after July 1, 1985, and is convicted of such crime, the employee's membership in any public retirement system is terminated as of the date of final conviction.
Hawaii	No law enabling forfeiture of a public pension.
Idaho	No law enabling forfeiture of a public pension.
Illinois	No public pension benefits "shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his or her service as a member." The trustees of each pension fund make the determination if the felony plea of conviction of the member met this standard. Those convicted of a felony may receive their contributions.
Indiana	Upon conviction of a misdemeanor or felony, a "member's contributions or benefits, or both, may be transferred to reimburse his employer for loss resulting from the member's criminal taking of his employer's property by the board if it receives adequate proof of the loss."
Iowa	No law enabling forfeiture of a public pension.
Kentucky	Statute provides that any "member hired on or after August 1, 2002" who is convicted of a felony that is related to his or her employment shall forfeit his or her retirement benefits, and shall be entitled instead only to a refund of his or her account balance with any accumulated interest. An appeal will stay the payment of the forfeited retirement allowance, and in the event that the appeal overturns the conviction the member is entitled to all retirement benefits. KRS 161.470(5)(e)
Louisiana	Pension benefits may be garnished for misconduct associated with service as an elected official or public employee for which credit in the system, plan, or fund was earned or accrued.
Maine	Courts may order forfeiture of pension benefits of those convicted or pleading guilty to a crime committed in connection with the member's public office or public employment. Also, amounts credited to the account of a member of the retirement system are available to pay any court-ordered restitution for economic loss suffered by the State or a political subdivision of the State as the result of the crime.
Maryland	Public employees who are convicted of a felony in the commission of their public duties forfeit their retirement benefit.
Massachusetts	Generally, retirement boards are required to deny or rescind the pensions of any public employee convicted of a crime related to his or her duties. A member may be entitled to receive their accumulated retirement contributions. In certain instances a member of a retirement system could be subject to forfeiture of any rights to benefits or their accumulated retirement contributions. Separately, a retirement board is required to suspend a disability retirement allowance for the period a member is incarcerated as a result of a felony conviction <a href="http://www.mass.gov/legis/laws/mgl/32-15.htm">http://www.mass.gov/legis/laws/mgl/32-15.htm</a>
Michigan	"A member or retirant who is convicted of or who enters a <i>nolo contendere</i> plea accepted by a court for a felony arising out of his or her service as a public employee is considered to have breached the public trust and may have his or her rights to an otherwise vested retirement benefit and all accumulated contributions standing to that person's credit in the retirement system forfeited as provided in this act. This act applies only to the retirement system of which the person was a member or retirant at the time the felony was committed and only to the retirement system established by the entity affected by the felony" The statute provides for the forfeiture of benefits accrued to the member or retirant "after the time the act or acts that resulted in the felony were committed."

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Minnesota	Minnesota statutes forbid a survivor convicted of causing the death of a public pension plan member, from collecting survivor benefits under that account. If convicted, the benefit is forfeited and the pension plan can attempt to recover the benefit previously paid.
Mississippi	No law enabling forfeiture of a public pension.
Missouri	Effective 8/28/14, a participant in a public employee retirement system established by the state or any political subdivision who is found guilty of a felony committed in direct connection with or directly related to the participant's duties is ineligible to receive any retirement benefits from the system. The participant may request a refund of his or her contributions to the system including any credited interest. Effective 8/28/99, any member who serves as a member of the general assembly or as a statewide elected official, shall not be eligible to receive any retirement benefits from the system ... if such member is convicted of a felony that is determined by a court of law to have been committed in connection with the member's duties either as a member of the general assembly or as a statewide elected official, unless such conviction is later reversed by a court of law. Also, any board member, plan participant, or employee who is found guilty of a plan-related felony is prohibited from receiving a benefit from the plan.
Montana	Nothing regarding malfeasance in office or employment-related criminal conduct unless disability or death result.  <b>19-2-804.</b> Limitations on payment of benefits to person causing member's death or disability. If a person is convicted of knowingly, purposely, or intentionally causing a (retirement system) member's death or disability, that person may not receive benefits or payments from a retirement system and the benefits must be payable as otherwise provided in statute. <b>19-2-906.</b> Limitations on disability or survivorship benefits. If the board determines that the disability or death of a (retirement system) member of a defined benefit plan is proximately caused by the gross negligence, willful misconduct, or violation of the law by the member, the board may revoke, suspend, or refuse to grant benefits except an annuity that is the actuarial equivalent of the member's accumulated contributions with regular interest to the day the benefit commences.
Nebraska	No law enabling forfeiture of a public pension.
Nevada	For persons who become members of PERS, JRS or LRS on or after 7/1/15, retirement benefits are forfeited (with limited exceptions) among conviction or plea of guilty to a felony. For all others, retirement benefits can be voided only in cases involving a person convicted of murder or making a false statement in order to receive benefits.
New Hampshire	Per state law, the NHRS board is authorized to correct the benefit level and to adjust future payments so that the actuarial equivalent of overpayments shall be repaid, for any person whose benefit is affected through false statements or falsification of records of the retirement system.
New Jersey	The board of trustees of any State or locally-administered pension fund or retirement system is authorized to order the forfeiture of all or part of the pension or retirement benefit of any member of the fund or system for misconduct occurring during the member's public service which renders the member's service or part thereof dishonorable. Also, public officers or employees convicted of certain crimes involving or touching their office or employment face mandatory forfeiture of pension and retirement benefits. Contributions are considered part of the employee's salary and not part of the pension benefit. A state, county or local employer participating in a pension fund or retirement system would be responsible for reimbursement to the pension fund or retirement system of all pension costs incurred by the pension fund or retirement system following any settlement agreement between the employer and an employee that provides for the employer not to pursue any civil or criminal charges or an action for misconduct against the employee.

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New Mexico	Elected and appointed officials may be fined an amount up to their total salary and pension benefits if they are convicted of felony corruption charges.
New York	For crimes committed on or after 1/1/18, a judge may strip or reduce the pension of a public official convicted of a felony related to their official duties. Public official is defined as any elected official, state official appointed by the governor, judge and certain employees involved in policy making. For crimes committed prior to the effective date, those convicted of a felony related to their public office who entered the public retirement system after Nov. 12, 2011, can have their pensions stripped.
North Carolina	Elected officials who are members of the Legislative Retirement System, the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Consolidated Judicial Retirement System shall forfeit their pensions upon conviction of a State or Federal offense involving public corruption or a felony violation of election laws. Member contributions will be returned.
Ohio	Ohio Revised Code Section 2929.192 provides for forfeiture of retirement benefits by a member who was serving in a position of honor, trust, or profit after conviction for bribery, theft in office, and engaging in a pattern of corrupt activity. This forfeiture applies to all of the five (5) public pension plans in Ohio. Ohio Revised Code Section 3307.373 provides for forfeiture for members of the State Teachers Retirement System of Ohio convicted of rape, sexual battery, unlawful sexual contact with a minor or gross sexual imposition if the victim was a student
Oklahoma	State & county officers and employees are removed from office and lose their jobs upon conviction of a felony in state or federal court. If the crime involves a "violation of the oath of office," their pension is forfeited for any service earned after 1981 (the original effective date of the law).
Oregon	No law enabling forfeiture of a public pension.
Pennsylvania	A public employee convicted of using his or her position or office to commit a crime relating to theft, bribery, forgery, perjury, etc. forfeits their right to receive the employer-funded portion of their public pension benefit. Such employees may receive their contributions, without interest, and contributions may be reduced to pay fines and make restitution associated with their conviction. Although a felony, conflict of interest does not result in an automatic forfeiture of pension benefits.
Rhode Island	"Any retirement or other benefit or payment of any kind to which a public official or public employee is otherwise entitled ... shall be revoked or reduced, ... if, the public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment. Any such conviction or plea shall be deemed to be a breach of the public officer's or public employee's contract with his or her employer."
South Carolina	Retirement benefits payable from the Retirement Systems are generally not subject to garnishment, attachment or other legal process. However, a lien can be made against a member's retirement benefits if the member is convicted of embezzlement of public funds pursuant to Section 8-1-115 of the S.C. Code of Laws.
South Dakota	No law enabling forfeiture of a public pension.
Tennessee	For employees hired or elected after July 1, 1982 and convicted in state court of malfeasance in office felony, pension is forfeited. For employees hired after May 30, 1993 and convicted in state or federal court of malfeasance in office felony, pension is forfeited. Elected officials elected or re-elected beginning in 2006 or after, such election should be deemed to be consent to forfeiture without respect to the original membership date.
Texas	Elected officials who participate in the ERS of Texas and who are convicted of certain qualifying felonies associated with corruption or abuse of office, lose eligibility for their pension benefit.

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Utah	Public employees convicted of a felony related to the performance of their position shall forfeit their retirement benefit.
Vermont	The Attorney General or State's Attorney is required to petition a judge to order the partial or total civil forfeiture of retirement payments to public officials convicted of crimes related to their employment.
Virginia	From Virginia statutes: "No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board." For elected officials, a member of the state house or senate would be required to certify that service was terminated for reasons of malfeasance.
Washington	No general provision for forfeiture of a pension. There is a "slayer provision" that will preclude a person from receiving a pension as the beneficiary of a person that they are convicted of killing.
Wisconsin	No provision authorizing or requiring forfeiture prior to the time of payment to the public employee. Wisconsin law does provide, however, that annuity payments and lump sum payments can have child support withheld and may be attached to satisfy delinquent tax obligations. Also, "corrections" may be made to service credits, contributions, premium payments and benefit payments if the amounts on record for an employee are the result of fraud.
Wyoming	No law enabling forfeiture of a public pension.