

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 398
PROPOSED COMMITTEE SUBSTITUTE S398-PCS35281-TVp-27

Short Title: Felony Forfeiture Changes/Retirement.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE RECEIPT OF BENEFITS FROM THE CONSOLIDATED
3 JUDICIAL RETIREMENT SYSTEM FOR JUDGES WHO HAVE BEEN IMPEACHED
4 AND CONVICTED OR REMOVED FROM OFFICE, TO APPLY FELONY
5 FORFEITURE PROVISIONS TO THE NATIONAL GUARD PENSION FUND AND TO
6 THE DISABILITY INCOME PLAN OF NORTH CAROLINA, AND TO MAKE OTHER
7 AMENDMENTS TO THE FELONY FORFEITURE STATUTES.

8 The General Assembly of North Carolina enacts:

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10 **PART I. FELONY FORFEITURE CLARIFICATION**

11 **SECTION 1.(a)** G.S. 135-18.10A(b) is repealed.

12 **SECTION 1.(b)** G.S. 128-38.4A(b) is repealed.

13 **SECTION 1.(c)** G.S. 135-75.1A(b) is repealed.

14 **SECTION 1.(d)** G.S. 120-4.33A(b) is repealed.

15 **SECTION 1.(e)** Article 3 of Chapter 127A of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 127A-40.1 Forfeiture of benefits for certain felonies.**

18 A member of the North Carolina National Guard who is otherwise eligible to receive a
19 monthly pension under this Article shall cease to be eligible upon forfeiture of any retirement
20 benefits under G.S. 120-4.33, 120-4.33A, 128-38.4, 128-38.4A, 135-18.10, 135-18.10A,
21 135-75.1, 135-75.1A, or 135-75.1C. Monthly pensions payable under this Article shall cease
22 upon the ineligibility of a member under this section."

23 **SECTION 1.(f)** G.S. 135-103 is amended by adding a new subsection to read:

24 **"(c)** A participant or beneficiary who is otherwise eligible to receive a benefit under this
25 Article shall cease to be eligible upon forfeiture of any retirement benefits under G.S. 120-4.33,
26 120-4.33A, 128-38.4, 128-38.4A, 135-18.10, 135-18.10A, 135-75.1, 135-75.1A, or 135-75.1C."

27 **SECTION 1.(g)** Article 6 of Chapter 135 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 135-115. Benefit cessation for certain felonies.**

30 Monthly benefits payable under this Article shall cease upon the ineligibility of a participant
31 or beneficiary under G.S. 135-103(c)."

32 **SECTION 1.(h)** Subsections (e), (f), and (g) of this section are effective when it
33 becomes law and apply to any applicable retirement benefits forfeiture occurring on or after that
34 date.

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36 **PART II. FORFEITURE OF RETIREMENT BENEFITS/JUDGES**



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1 SECTION 2.(a) Article 4 of Chapter 135 of the General Statutes is amended by
2 adding a new section to read:

3 **§ 135-75.1C. Forfeiture of retirement benefits for conviction on impeachment or removal**
4 **from office.**

5 (a) The Board of Trustees shall not pay any retirement benefits or allowances, except for
6 a return of member contributions plus interest, to any justice or judge of the General Court of
7 Justice for whom any of the following apply:

8 (1) The justice or judge of the General Court of Justice is convicted on
9 impeachment under Article IV of the North Carolina Constitution and Chapter
10 123 of the General Statutes.

11 (2) The justice or judge of the General Court of Justice is removed from office
12 under G.S. 7A-376(b) for reasons other than physical or mental incapacity.

13 (b) If a justice or judge of the General Court of Justice or former justice or judge of the
14 General Court of Justice whose benefits were forfeited under this section, except for the return
15 of member contributions plus interest, has vested in this System on or before January 1, 2020,
16 then that member is not entitled to any creditable service that accrued after January 1, 2020.

17 (c) If a justice or judge of the General Court of Justice or former justice or judge of the
18 General Court of Justice whose benefits were forfeited under this section, except for the return
19 of member contributions plus interest, subsequently has the conviction on impeachment or
20 removal from office under G.S. 7A-376(b) vacated or set aside for any reason, then the member
21 or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence
22 to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is
23 appropriate, then all benefits will be restored upon repayment of all accumulated contributions
24 plus interest. Repayment of all accumulated contributions that have been received by the
25 individual under the forfeiture provisions of this section must be made in a total lump-sum
26 payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each
27 calendar year from the year of forfeiture to the year of repayment. An individual receiving a
28 reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

29 SECTION 2.(b) G.S. 135-75.1B reads as rewritten:

30 **§ 135-75.1B. Prohibition on purchase of forfeited service.**

31 Any member whose retirement benefits have been forfeited under ~~G.S. 135-75.1~~ or
32 ~~G.S. 135-75.1A~~ this Article is prohibited from subsequently purchasing or repurchasing either
33 those forfeited benefits or any creditable membership service associated with those forfeited
34 benefits."

35 SECTION 2.(c) G.S. 7A-376(b) reads as rewritten:

36 "(b) Upon recommendation of the Commission, the Supreme Court may issue a public
37 reprimand, censure, suspend, or remove any judge for willful misconduct in office, willful and
38 persistent failure to perform the judge's duties, habitual intemperance, conviction of a crime
39 involving moral turpitude, or conduct prejudicial to the administration of justice that brings the
40 judicial office into disrepute. A judge who is suspended for any of the foregoing reasons shall
41 receive no compensation during the period of that suspension. A judge who is removed for any
42 of the foregoing reasons shall receive no retirement ~~compensation~~ compensation, except for a
43 return of member contributions plus interest as provided in G.S. 135-75.1C, and is disqualified
44 from holding further judicial office."

45 SECTION 2.(d) The General Assembly and the Supreme Court shall notify the State
46 Treasurer and the Board of Trustees of the conviction on impeachment or removal from office
47 of a justice or judge of the General Court of Justice.

48 SECTION 2.(e) This section becomes effective January 1, 2020, and applies to
49 offenses committed on or after that date.

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51 **PART III. EFFECTIVE DATE**

1 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
2 law.