

Amend HB 3270 (senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 42.01, Code of Criminal Procedure, is amended by adding Section 12 to read as follows:

Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0192.

SECTION _____. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0192 to read as follows:

Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense described by Section 814.013 or 824.009, Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's employment described by Section 814.013(b) or Section 824.009(b), Government Code, while a member of the Employees Retirement System of Texas or the Teacher Retirement System of Texas.

(b) A judge who makes the affirmative finding described by this article shall make the determination and provide the notice required by Section 814.013(1) or 824.009(1), Government Code, as applicable.

SECTION _____. Subchapter A, Chapter 814, Government Code, is amended by adding Section 814.013 to read as follows:

Sec. 814.013. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) In this section, "qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code, or a federal offense that contains elements that are substantially similar to the elements of a listed felony offense:

(1) Section 15.01 (criminal attempt), Section 15.02 (criminal conspiracy), Section 15.03 (criminal solicitation), or Section 15.031 (criminal solicitation of a minor);

(2) Section 19.02 (murder), Section 19.03 (capital murder), Section 19.04 (manslaughter), or Section 19.05 (criminally negligent homicide);

(3) Section 20.02 (unlawful restraint);
(4) Section 20.03 (kidnapping) or Section 20.04 (aggravated kidnapping);
(5) Section 20.05 (smuggling of persons);
(6) Section 20A.02 (trafficking of persons);
(7) Section 21.02 (continuous sexual abuse of young child or children);
(8) Section 21.11 (indecent with a child);
(9) Section 21.12 (improper relationship between educator and student);
(10) Section 22.01 (assault);
(11) Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault);
(12) Section 22.04 (injury to a child, elderly individual, or disabled individual);
(13) Section 22.041 (abandoning or endangering child);
(14) Section 33.021 (online solicitation of a minor);
(15) Section 43.05 (compelling prostitution);
(16) Section 43.25 (sexual performance by a child);
(17) Section 43.251 (employment harmful to children); or
(18) Section 43.26 (possession or promotion of child pornography).

(b) This section applies only to a person who is a member or an annuitant of the retirement system and is or was an employee of the Texas Juvenile Justice Department in one of that department's institutional schools.

(c) Except as provided by Subsection (e), a person is not eligible to receive a service retirement annuity from the retirement system if the person is convicted of a qualifying felony the victim of which is a student.

(d) The retirement system shall suspend payments of an annuity to a person who is not eligible to receive a service retirement annuity under Subsection (c), as determined by the retirement system, on receipt by the retirement system of:

(1) notice of a conviction for a qualifying felony under Subsection (f) or (1);

(2) notice of a conviction for a qualifying felony from a

district court or district attorney; or

(3) any other information the retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

(e) A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (g).

(f) Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to the retirement system. The notice must comply with rules adopted by the board of trustees under Subsection (k).

(g) A person who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the person's retirement annuity contributions, including interest earned on those contributions.

(h) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity under Subsection (c).

(i) On conviction of a person for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(j) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(k) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(1) A court shall notify the retirement system of the terms of a person's conviction for a qualifying felony.

SECTION _____. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.009 to read as follows:

Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) In this section, "qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code, or a federal offense that contains elements that are substantially similar to the elements of a listed felony offense:

(1) Section 15.01 (criminal attempt), Section 15.02 (criminal conspiracy), Section 15.03 (criminal solicitation), or Section 15.031 (criminal solicitation of a minor);

(2) Section 19.02 (murder), Section 19.03 (capital murder), Section 19.04 (manslaughter), or Section 19.05 (criminally negligent homicide);

(3) Section 20.02 (unlawful restraint);

(4) Section 20.03 (kidnapping) or Section 20.04 (aggravated kidnapping);

(5) Section 20.05 (smuggling of persons);

(6) Section 20A.02 (trafficking of persons);

(7) Section 21.02 (continuous sexual abuse of young child or children);

(8) Section 21.11 (indecentcy with a child);

(9) Section 21.12 (improper relationship between educator and student);

(10) Section 22.01 (assault);

(11) Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault);

(12) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(13) Section 22.041 (abandoning or endangering child);

(14) Section 33.021 (online solicitation of a minor);

(15) Section 43.05 (compelling prostitution);

(16) Section 43.25 (sexual performance by a child);

(17) Section 43.251 (employment harmful to children); or
(18) Section 43.26 (possession or promotion of child pornography).

(b) This section applies only to a person who is a member or an annuitant of the retirement system and is or was an employee of the public school system.

(c) Except as provided by Subsection (e), a person is not eligible to receive a service retirement annuity from the retirement system if the person is convicted of a qualifying felony the victim of which is a student.

(d) The retirement system shall suspend payments of an annuity to a person who is not eligible to receive a service retirement annuity under Subsection (c), as determined by the retirement system, on receipt by the retirement system of:

(1) notice of a conviction for a qualifying felony under Subsection (f) or (1);

(2) notice of a conviction for a qualifying felony from a district court or district attorney; or

(3) any other information the retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

(e) A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (g).

(f) Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to the retirement system. The notice must comply with rules adopted by the board of trustees under Subsection (k).

(g) A person who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of

the person's retirement annuity contributions, including interest earned on those contributions.

(h) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity under Subsection (c).

(i) On conviction of a person for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(j) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(k) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(l) A court shall notify the retirement system of the terms of a person's conviction of a qualifying felony.

SECTION _____. Section 12, Article 42.01, Code of Criminal Procedure, and Article 42.0192, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act.

SECTION 6. (a) Not later than December 31, 2017, the board of trustees of the Employees Retirement System of Texas shall adopt the rules necessary to implement Section 814.013, Government Code, as added by this Act.

(b) Not later than December 31, 2017, the board of trustees of the Teacher Retirement System of Texas shall adopt the rules necessary to implement Section 824.009, Government Code, as added by this Act.

SECTION _____. Sections 814.013 and 824.009, Government Code, as added by this Act, apply only to an offense committed on or after the effective date of rules adopted in accordance with those sections. An offense committed before that date is governed by the

law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of rules adopted in accordance with Sections 814.013 and 824.009, Government Code, as added by this Act, if any element of the offense occurred before that date.