

1-1 By: Taylor of Collin S.B. No. 653  
 1-2 (In the Senate - Filed January 27, 2017; February 14, 2017,  
 1-3 read first time and referred to Committee on Education;  
 1-4 April 26, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 10, Nays 0; April 26, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor of Galveston	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Hall	X			
1-13 Huffines	X			
1-14 Hughes	X			
1-15 Seliger	X			
1-16 Taylor of Collin	X			
1-17 Uresti	X			
1-18 West			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 653 By: Taylor of Collin

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the eligibility of certain employees or annuitants  
 1-24 convicted of certain felony offenses.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Article 42.01, Code of Criminal Procedure, is  
 1-27 amended by adding Section 12 to read as follows:

1-28 Sec. 12. In addition to the information described by  
 1-29 Section 1, the judgment should reflect affirmative findings entered  
 1-30 pursuant to Article 42.0192.

1-31 SECTION 2. Chapter 42, Code of Criminal Procedure, is  
 1-32 amended by adding Article 42.0192 to read as follows:

1-33 Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO  
 1-34 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense  
 1-35 described by Section 814.013 or 824.009, Government Code, the judge  
 1-36 shall make an affirmative finding of fact and enter the affirmative  
 1-37 finding in the judgment in the case if the judge determines that the  
 1-38 offense committed was related to the defendant's employment  
 1-39 described by Section 814.013(b) or Section 824.009(b), Government  
 1-40 Code, while a member of the Employees Retirement System of Texas or  
 1-41 the Teacher Retirement System of Texas.

1-42 (b) A judge who makes the affirmative finding described by  
 1-43 this article shall make the determination and provide the notice  
 1-44 required by Section 814.013(1) or 824.009(1), Government Code, as  
 1-45 applicable.

1-46 SECTION 3. Subchapter A, Chapter 814, Government Code, is  
 1-47 amended by adding Section 814.013 to read as follows:

1-48 Sec. 814.013. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE  
 1-49 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

1-50 (a) In this section, "qualifying felony" means an offense that is  
 1-51 punishable as a felony under the following sections of the Penal  
 1-52 Code, or a federal offense that contains elements that are  
 1-53 substantially similar to the elements of a listed felony offense:

1-54 (1) Section 15.01 (criminal attempt), Section 15.02  
 1-55 (criminal conspiracy), Section 15.03 (criminal solicitation), or  
 1-56 Section 15.031 (criminal solicitation of a minor);

1-57 (2) Section 19.02 (murder), Section 19.03 (capital  
 1-58 murder), Section 19.04 (manslaughter), or Section 19.05  
 1-59 (criminally negligent homicide);

1-60 (3) Section 20.02 (unlawful restraint);

2-1 (4) Section 20.03 (kidnapping) or Section 20.04  
2-2 (aggravated kidnapping);  
2-3 (5) Section 20.05 (smuggling of persons);  
2-4 (6) Section 20A.02 (trafficking of persons);  
2-5 (7) Section 21.02 (continuous sexual abuse of young  
2-6 child or children);  
2-7 (8) Section 21.11 (indecenty with a child);  
2-8 (9) Section 21.12 (improper relationship between  
2-9 educator and student);  
2-10 (10) Section 22.01 (assault);  
2-11 (11) Section 22.011 (sexual assault) or Section 22.021  
2-12 (aggravated sexual assault);  
2-13 (12) Section 22.04 (injury to a child, elderly  
2-14 individual, or disabled individual);  
2-15 (13) Section 22.041 (abandoning or endangering  
2-16 child);  
2-17 (14) Section 33.021 (online solicitation of a minor);  
2-18 (15) Section 43.05 (compelling prostitution);  
2-19 (16) Section 43.25 (sexual performance by a child);  
2-20 (17) Section 43.251 (employment harmful to children);  
2-21 or  
2-22 (18) Section 43.26 (possession or promotion of child  
2-23 pornography).  
2-24 (b) This section applies only to a person who is a member or  
2-25 an annuitant of the retirement system and is or was an employee of  
2-26 the Texas Juvenile Justice Department in one of that department's  
2-27 institutional schools.  
2-28 (c) Except as provided by Subsection (e), a person is not  
2-29 eligible to receive a service retirement annuity from the  
2-30 retirement system if the person is convicted of a qualifying felony  
2-31 the victim of which is a student.  
2-32 (d) The retirement system shall suspend payments of an  
2-33 annuity to a person who is not eligible to receive a service  
2-34 retirement annuity under Subsection (c), as determined by the  
2-35 retirement system, on receipt by the retirement system of:  
2-36 (1) notice of a conviction for a qualifying felony  
2-37 under Subsection (f) or (l);  
2-38 (2) notice of a conviction for a qualifying felony  
2-39 from a district court or district attorney; or  
2-40 (3) any other information the retirement system  
2-41 determines by rule is sufficient to establish a conviction for a  
2-42 qualifying felony.  
2-43 (e) A person whose conviction is overturned on appeal or who  
2-44 meets the requirements for innocence under Section 103.001(a)(2),  
2-45 Civil Practice and Remedies Code:  
2-46 (1) is entitled to receive an amount equal to the  
2-47 accrued total of payments and interest earned on the payments  
2-48 withheld during the suspension period; and  
2-49 (2) may resume receipt of annuity payments on payment  
2-50 to the retirement system of an amount equal to the contributions  
2-51 refunded to the person under Subsection (g).  
2-52 (f) Not later than the 30th day after the date of a person's  
2-53 conviction for a qualifying felony, the school at which the person  
2-54 was employed shall provide written notice of the conviction to the  
2-55 retirement system. The notice must comply with rules adopted by the  
2-56 board of trustees under Subsection (k).  
2-57 (g) A person who is not eligible to receive a service  
2-58 retirement annuity under Subsection (c) is entitled to a refund of  
2-59 the person's retirement annuity contributions, including interest  
2-60 earned on those contributions.  
2-61 (h) Benefits payable to an alternate payee under Chapter 804  
2-62 who is recognized by a domestic relations order established before  
2-63 September 1, 2017, are not affected by a person's ineligibility to  
2-64 receive a retirement annuity under Subsection (c).  
2-65 (i) On conviction of a person for a qualifying felony, a  
2-66 court may, in the interest of justice and in the same manner as in a  
2-67 divorce proceeding, award half of the service retirement annuity  
2-68 forfeited by the person as the separate property of an innocent  
2-69 spouse if the annuity is partitioned or exchanged by written

3-1 agreement of the spouses as provided by Subchapter B, Chapter 4,  
 3-2 Family Code. The amount awarded to the innocent spouse may not be  
 3-3 converted to community property.  
 3-4 (j) Ineligibility for a retirement annuity under this  
 3-5 section does not impair a person's right to any other retirement  
 3-6 benefit for which the person is eligible.  
 3-7 (k) The board of trustees of the retirement system shall  
 3-8 adopt rules and procedures to implement this section.  
 3-9 (l) A court shall notify the retirement system of the terms  
 3-10 of a person's conviction for a qualifying felony.  
 3-11 SECTION 4. Subchapter A, Chapter 824, Government Code, is  
 3-12 amended by adding Section 824.009 to read as follows:  
 3-13 Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE  
 3-14 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.  
 3-15 (a) In this section, "qualifying felony" means an offense that is  
 3-16 punishable as a felony under the following sections of the Penal  
 3-17 Code, or a federal offense that contains elements that are  
 3-18 substantially similar to the elements of a listed felony offense:  
 3-19 (1) Section 15.01 (criminal attempt), Section 15.02  
 3-20 (criminal conspiracy), Section 15.03 (criminal solicitation), or  
 3-21 Section 15.031 (criminal solicitation of a minor);  
 3-22 (2) Section 19.02 (murder), Section 19.03 (capital  
 3-23 murder), Section 19.04 (manslaughter), or Section 19.05  
 3-24 (criminally negligent homicide);  
 3-25 (3) Section 20.02 (unlawful restraint);  
 3-26 (4) Section 20.03 (kidnapping) or Section 20.04  
 3-27 (aggravated kidnapping);  
 3-28 (5) Section 20.05 (smuggling of persons);  
 3-29 (6) Section 20A.02 (trafficking of persons);  
 3-30 (7) Section 21.02 (continuous sexual abuse of young  
 3-31 child or children);  
 3-32 (8) Section 21.11 (indecent with a child);  
 3-33 (9) Section 21.12 (improper relationship between  
 3-34 educator and student);  
 3-35 (10) Section 22.01 (assault);  
 3-36 (11) Section 22.011 (sexual assault) or Section 22.021  
 3-37 (aggravated sexual assault);  
 3-38 (12) Section 22.04 (injury to a child, elderly  
 3-39 individual, or disabled individual);  
 3-40 (13) Section 22.041 (abandoning or endangering  
 3-41 child);  
 3-42 (14) Section 33.021 (online solicitation of a minor);  
 3-43 (15) Section 43.05 (compelling prostitution);  
 3-44 (16) Section 43.25 (sexual performance by a child);  
 3-45 (17) Section 43.251 (employment harmful to children);  
 3-46 or  
 3-47 (18) Section 43.26 (possession or promotion of child  
 3-48 pornography).  
 3-49 (b) This section applies only to a person who is a member or  
 3-50 an annuitant of the retirement system and is or was an employee of  
 3-51 the public school system.  
 3-52 (c) Except as provided by Subsection (e), a person is not  
 3-53 eligible to receive a service retirement annuity from the  
 3-54 retirement system if the person is convicted of a qualifying felony  
 3-55 the victim of which is a student.  
 3-56 (d) The retirement system shall suspend payments of an  
 3-57 annuity to a person who is not eligible to receive a service  
 3-58 retirement annuity under Subsection (c), as determined by the  
 3-59 retirement system, on receipt by the retirement system of:  
 3-60 (1) notice of a conviction for a qualifying felony  
 3-61 under Subsection (f) or (l);  
 3-62 (2) notice of a conviction for a qualifying felony  
 3-63 from a district court or district attorney; or  
 3-64 (3) any other information the retirement system  
 3-65 determines by rule is sufficient to establish a conviction for a  
 3-66 qualifying felony.  
 3-67 (e) A person whose conviction is overturned on appeal or who  
 3-68 meets the requirements for innocence under Section 103.001(a)(2),  
 3-69 Civil Practice and Remedies Code:

4-1 (1) is entitled to receive an amount equal to the  
4-2 accrued total of payments and interest earned on the payments  
4-3 withheld during the suspension period; and

4-4 (2) may resume receipt of annuity payments on payment  
4-5 to the retirement system of an amount equal to the contributions  
4-6 refunded to the person under Subsection (g).

4-7 (f) Not later than the 30th day after the date of a person's  
4-8 conviction for a qualifying felony, the school at which the person  
4-9 was employed shall provide written notice of the conviction to the  
4-10 retirement system. The notice must comply with rules adopted by the  
4-11 board of trustees under Subsection (k).

4-12 (g) A person who is not eligible to receive a service  
4-13 retirement annuity under Subsection (c) is entitled to a refund of  
4-14 the person's retirement annuity contributions, including interest  
4-15 earned on those contributions.

4-16 (h) Benefits payable to an alternate payee under Chapter 804  
4-17 who is recognized by a domestic relations order established before  
4-18 September 1, 2017, are not affected by a person's ineligibility to  
4-19 receive a retirement annuity under Subsection (c).

4-20 (i) On conviction of a person for a qualifying felony, a  
4-21 court may, in the interest of justice and in the same manner as in a  
4-22 divorce proceeding, award half of the service retirement annuity  
4-23 forfeited by the person as the separate property of an innocent  
4-24 spouse if the annuity is partitioned or exchanged by written  
4-25 agreement of the spouses as provided by Subchapter B, Chapter 4,  
4-26 Family Code. The amount awarded to the innocent spouse may not be  
4-27 converted to community property.

4-28 (j) Ineligibility for a retirement annuity under this  
4-29 section does not impair a person's right to any other retirement  
4-30 benefit for which the person is eligible.

4-31 (k) The board of trustees of the retirement system shall  
4-32 adopt rules and procedures to implement this section.

4-33 (l) A court shall notify the retirement system of the terms  
4-34 of a person's conviction of a qualifying felony.

4-35 SECTION 5. Section 12, Article 42.01, Code of Criminal  
4-36 Procedure, and Article 42.0192, Code of Criminal Procedure, as  
4-37 added by this Act, apply only to a judgment of conviction entered on  
4-38 or after the effective date of this Act.

4-39 SECTION 6. (a) Not later than December 31, 2017, the board  
4-40 of trustees of the Employees Retirement System of Texas shall adopt  
4-41 the rules necessary to implement Section 814.013, Government Code,  
4-42 as added by this Act.

4-43 (b) Not later than December 31, 2017, the board of trustees  
4-44 of the Teacher Retirement System of Texas shall adopt the rules  
4-45 necessary to implement Section 824.009, Government Code, as added  
4-46 by this Act.

4-47 SECTION 7. Sections 814.013 and 824.009, Government Code,  
4-48 as added by this Act, apply only to an offense committed on or after  
4-49 the effective date of rules adopted in accordance with those  
4-50 sections. An offense committed before that date is governed by the  
4-51 law in effect on the date the offense was committed, and the former  
4-52 law is continued in effect for that purpose. For purposes of this  
4-53 section, an offense was committed before the effective date of  
4-54 rules adopted in accordance with Sections 814.013 and 824.009,  
4-55 Government Code, as added by this Act, if any element of the offense  
4-56 occurred before that date.

4-57 SECTION 8. This Act takes effect September 1, 2017.

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