

1-1 By: Flores S.B. No. 1570
 1-2 (In the Senate - Filed March 5, 2019; March 14, 2019, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 29, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 29, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1570 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the effect of certain felony convictions of certain
 1-22 corrections employees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 810, Government Code, is amended by
 1-25 adding Section 810.004 to read as follows:

1-26 Sec. 810.004. CERTAIN CORRECTIONS EMPLOYEES INELIGIBLE FOR
 1-27 RETIREMENT ANNUITY. (a) In this section:

1-28 (1) "Governing body of a public retirement system" and
 1-29 "public retirement system" have the meanings assigned by Section
 1-30 802.001.

1-31 (2) "Qualifying felony" means any felony involving an
 1-32 incarcerated member of a criminal street gang as defined by Section
 1-33 71.01, Penal Code, including:

1-34 (A) bribery;

1-35 (B) the embezzlement, extortion, or other theft
 1-36 of public money;

1-37 (C) perjury;

1-38 (D) engaging in organized criminal activity;

1-39 (E) tampering with governmental record;

1-40 (F) misuse of official information;

1-41 (G) abuse of official capacity; or

1-42 (H) conspiracy or the attempt to commit any of
 1-43 the offenses described by Paragraphs (A)-(G).

1-44 (b) This section applies only to a person who is:

1-45 (1) a member of the employee class of the Employees
 1-46 Retirement System of Texas as described by Section 812.003 because
 1-47 the person serves as a corrections officer for the Texas Department
 1-48 of Criminal Justice or the Texas Juvenile Justice Department; or

1-49 (2) otherwise eligible for membership in a public
 1-50 retirement system wholly or partly because the person served as a
 1-51 corrections officer for the Texas Department of Criminal Justice or
 1-52 the Texas Juvenile Justice Department.

1-53 (c) Except as provided by Subsection (d), a member of a
 1-54 public retirement system is not eligible to receive a service
 1-55 retirement annuity under the retirement system if the member is
 1-56 convicted of a qualifying felony for conduct arising directly from
 1-57 the member's service as a corrections officer.

1-58 (d) The retirement system, on receipt of notice of a
 1-59 conviction under Subsection (j), any similar notice of a conviction
 1-60 of a qualifying felony from a United States district court or United

2-1 States attorney, or any other information that the retirement
 2-2 system determines by rule is sufficient to establish a conviction
 2-3 of a qualifying felony, shall suspend payments of a service
 2-4 retirement annuity to a person the system determines is ineligible
 2-5 to receive the annuity under Subsection (c). A person whose
 2-6 conviction is overturned on appeal or who meets the requirements
 2-7 for innocence under Section 103.001(a)(2), Civil Practice and
 2-8 Remedies Code:

2-9 (1) is entitled to receive an amount equal to the
 2-10 accrued total of payments and interest earned on the payments
 2-11 withheld during the suspension period; and

2-12 (2) may resume receipt of annuity payments on payment
 2-13 to the retirement system of an amount equal to the contributions
 2-14 refunded to the person under Subsection (e).

2-15 (e) A member who is ineligible to receive a service
 2-16 retirement annuity under Subsection (c) is entitled to a refund of
 2-17 the member's service retirement annuity contributions, including
 2-18 interest earned on those contributions. A refund under this
 2-19 subsection is subject to an award of all or part of the member's
 2-20 service retirement annuity contributions to a former spouse,
 2-21 including as a just and right division of the contributions on
 2-22 divorce, payment of child support, or payment of spousal
 2-23 maintenance or contractual alimony or other order of a court.

2-24 (f) Benefits payable to an alternate payee under Chapter 804
 2-25 who is recognized by a qualified domestic relations order
 2-26 established before the effective date of this subsection are not
 2-27 affected by a member's ineligibility to receive a service
 2-28 retirement annuity under Subsection (c).

2-29 (g) On conviction of a member for a qualifying felony:

2-30 (1) a court may, in the same manner as in a divorce or
 2-31 annulment proceeding, make a just and right division of the
 2-32 member's service retirement annuity by awarding to the member's
 2-33 spouse all or part of the community property interest in the annuity
 2-34 forfeited by the member; and

2-35 (2) a court shall, if the member's service retirement
 2-36 annuity was partitioned or exchanged by written agreement of the
 2-37 spouses as provided by Subchapter B, Chapter 4, Family Code, before
 2-38 the member's commission of the offense, award the annuity forfeited
 2-39 by the member to the member's spouse as provided in the agreement.

2-40 (h) Ineligibility for a service retirement annuity under
 2-41 this section does not impair a person's right to any other
 2-42 retirement benefit for which the person is eligible.

2-43 (i) The governing body of a public retirement system shall
 2-44 adopt rules and procedures to implement this section.

2-45 (j) A court shall notify the retirement system of the terms
 2-46 of a conviction of a person convicted of an offense described by
 2-47 Subsection (c).

2-48 (k) Notwithstanding any other provision of this section, if
 2-49 the spouse of a member convicted of a qualifying felony is convicted
 2-50 of the felony as a party to the offense as defined by Section 7.01,
 2-51 Penal Code, or of another qualifying offense arising out of the same
 2-52 criminal episode as defined by Section 3.01, Penal Code, the spouse
 2-53 forfeits the member's service retirement annuity and service
 2-54 retirement contributions to the same extent as the member.

2-55 SECTION 2. Article 42.01, Code of Criminal Procedure, is
 2-56 amended by adding Section 14 to read as follows:

2-57 Sec. 14. In addition to the information described by
 2-58 Section 1, the judgment should reflect affirmative findings entered
 2-59 pursuant to Article 42.0193.

2-60 SECTION 3. Chapter 42, Code of Criminal Procedure, is
 2-61 amended by adding Article 42.0193 to read as follows:

2-62 Art. 42.0193. FINDING REGARDING OFFENSE RELATED TO CONDUCT
 2-63 OF CERTAIN CORRECTIONS EMPLOYEES. (a) In the trial of an offense
 2-64 described by Section 810.004, Government Code, the judge shall make
 2-65 an affirmative finding of fact and enter the affirmative finding in
 2-66 the judgment in the case if the judge determines that the defendant
 2-67 is:

2-68 (1) a member of the employee class described by
 2-69 Section 810.004(b)(1), Government Code, while a member of the

3-1 Employees Retirement System of Texas because the person serves as a
3-2 corrections officer for the Texas Department of Criminal Justice or
3-3 the Texas Juvenile Justice Department; or
3-4 (2) otherwise eligible for membership in a public
3-5 retirement system wholly or partly because the person served as a
3-6 corrections officer for the Texas Department of Criminal Justice or
3-7 the Texas Juvenile Justice Department.

3-8 (b) A judge who makes the affirmative finding described by
3-9 this article shall make the determination and provide the notice
3-10 required by Section 810.004(j), Government Code.

3-11 SECTION 4. Section 810.002, Government Code, as added by
3-12 Chapter 443 (S.B. 500), Acts of the 85th Legislature, Regular
3-13 Session, 2017, is redesignated as Section 810.003, Government Code.

3-14 SECTION 5. Section 810.004, Government Code, as added by
3-15 this Act, applies only to a member of a public retirement system who
3-16 serves as a corrections officer and, on or after the effective date
3-17 of this Act, commits an offense that is a qualifying felony as
3-18 defined by that section. A person who commits a qualifying felony
3-19 before the effective date of this Act is subject to the law in
3-20 effect on the date the offense was committed, and the former law is
3-21 continued in effect for that purpose. For purposes of this section,
3-22 an offense was committed before the effective date of this Act if
3-23 any element of the offense occurred before that date.

3-24 SECTION 6. This Act takes effect immediately if it receives
3-25 a vote of two-thirds of all the members elected to each house, as
3-26 provided by Section 39, Article III, Texas Constitution. If this
3-27 Act does not receive the vote necessary for immediate effect, this
3-28 Act takes effect September 1, 2019.

3-29 * * * * *