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HOUSE BILL NO. 1119

Offered January 12, 2022

A *BILL to amend and reenact § 51.1-124.13 of the Code of Virginia, relating to pensions; loss of benefits for certain felony convictions.*

Patron—Campbell, R.R.

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-124.13 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-124.13. Loss of benefits; certain felony convictions.

A. No person shall be entitled to any of the benefits of this title as provided in this section if (i) he is convicted of a felony and (ii) the person's employer determines that the felony arose from misconduct occurring on or after July 1, 2011, in any position in which the person was a member covered for retirement purposes under any retirement system administered by the Board. Prior to making any such determination, the employer shall give the person reasonable prior written notice and provide an opportunity to be heard. The employer's determination may be appealed in a manner consistent with subsection B, and no further proceedings shall follow the decision of the circuit court. The employer's determination shall become final 10 calendar days after the date of the initial determination if no appeal is filed, or the date of the decision of the circuit court if an appeal is filed. A reversal by the circuit court of the employer's determination shall render the determination null and void. *Notwithstanding the foregoing and beginning July 1, 2022, for purposes of this subsection, "felony" shall not include a felony committed by a law-enforcement officer, as that term is defined in § 9.1-101, so long as such felony (i) was not the result of gross negligence or intentional misconduct by such officer or (ii) did not result in any pecuniary benefit, as that term is defined in § 18.2-446, for such officer.*

B. Proceedings for review of the determination of the employer may be made by the member filing a notice of appeal within five workdays of receipt of the determination. Within five workdays thereafter, the employer shall transmit, to the clerk of the circuit court in the jurisdiction where the employer is located, a copy of the record. The court, on motion of the member, may issue a writ of certiorari requiring the employer to transmit the record on or before a certain date. Within 30 days of receipt of such records, the court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the determination of the employer or may reverse or modify the determination. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court shall be final and shall not be appealable. The circuit court hearing shall be at no cost to the Commonwealth or the member.

C. The Board shall implement the relinquishment of benefits under this title as soon as practicable after the employer notifies the Board of its final determination that the member's felony conviction arose from misconduct in any position in which the member was a member in service.

D. If the person is or becomes a member in service after relinquishment of benefits under subsection C, he shall be entitled to the benefits under this title based solely on his service occurring after the relinquishment.

E. Notwithstanding any provision of law to the contrary, any service credit lost from relinquishment of benefits under subsection C shall be ineligible for subsequent purchase.

F. The governing body of any locality served by a constitutional officer shall be considered that officer's employer for purposes of this section.

INTRODUCED

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