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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii is one of  
2 thirteen states, including the District of Columbia, that does  
3 not have a law that governs the forfeiture of public pensions  
4 for public employees who are convicted of a felony. The  
5 legislature further finds that while existing law requires an  
6 employee of the State or county who is convicted of a felony to  
7 have their employment terminated, the employee is still entitled  
8 to receive benefits from the employees' retirement system.  
9 Public employees who have been convicted of a felony that is  
10 directly related to the employee's position or duties ultimately  
11 lose the trust of the public by misusing their position and  
12 should no longer be eligible to receive benefits accrued during  
13 their employment with the State or county.

14           The purpose of this Act is to allow a court to order the  
15 forfeiture of one-half of an employee's retirement benefits upon  
16 the determination by the court that the employee is convicted of  
17 a felony that the court finds to be related to the employee's



1 employment and to allow the designated beneficiaries to receive  
2 one-half of the benefits they are entitled to receive after the  
3 death of the retirant who committed the felony unless the  
4 beneficiary is convicted of a felony based on the same set of  
5 circumstances as the employee.

6 SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended  
7 by adding a new section to subpart C of part II to be  
8 appropriately designated and to read as follows:

9 "§88- Forfeiture of benefits; felony convictions. (a)

10 If a member, former member, or retirant is convicted of a felony  
11 and the court finds that the felony is related to the employment  
12 of the member, former member, or retirant by the State or any  
13 county, the court may order, as a civil penalty pursuant to  
14 section 706-605(8), a forfeiture by the member, former member,  
15 or retirant of one-half of any:

16 (1) Interest;

17 (2) Hypothetical account balance in excess of the amount  
18 representing any employee contributions made by or on  
19 behalf of the member, former member, or retirant;

20 (3) Pension;

21 (4) Annuity; or



1       (5) Retirement allowance,  
2 to which the member, former member, or retirant may otherwise be  
3 entitled under this chapter; provided that upon the death of the  
4 member, former member, or retirant, the designated beneficiary  
5 of the member, former member, or retirant shall receive the  
6 reduced benefits to which the member, former member or retirant  
7 would be entitled under this section; provided further that  
8 designated beneficiaries who are convicted of a felony based on  
9 the same set of circumstances as the member, former member, or  
10 retirant who were subject to civil penalty under this section,  
11 shall not receive any benefits.

12       (b) Upon receipt of a certified copy of the order  
13 decreeing forfeiture, the system shall comply with the order and  
14 shall reduce, suspend, or deny payment to the member, former  
15 member, or retirant as provided in the order until such time as  
16 the system receives a certified order to:

17       (1) Increase, resume, or make payments to the member,  
18       former member, or retirant; or

19       (2) Quash or reverse the order of forfeiture.

20 The system shall not be required to make inquiry into the  
21 propriety of the order of forfeiture or recoup any payments made



1 to the member, former member, or retirant prior to receipt by  
2 the system of the order of forfeiture.

3 (c) For the purposes of this section, a felony is "related  
4 to the employment" of an employee of the State or a county if  
5 the employee uses or attempts to use the employee's official  
6 position to commit the felony, including:

7 (1) Felonies in which state or county time, equipment, or  
8 other facilities are used in the commission of the  
9 felony;

10 (2) Bribery;

11 (3) Embezzlement, theft, or other unlawful taking,  
12 receiving, retaining, or failing to account properly  
13 for any property or funds that belong to the State or  
14 any county or any department, bureau, board, or other  
15 agency thereof; or

16 (4) Felonies committed against a person over whom the  
17 employee, in the course of the employee's duties,  
18 exercises custody or supervision.

19 (d) This section shall not impair or diminish benefits  
20 accrued prior to the effective date of this section.



1        (e) This section shall not apply to accrued retirement  
2 benefits that are nonforfeitable pursuant to sections 88-73(f),  
3 88-281(g), and 88-331(f)."

4        SECTION 3. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7        SECTION 4. New statutory material is underscored.

8        SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Employees' Retirement System; Retirement Benefits; Felony Convictions; Forfeiture

**Description:**

Authorizes a court to order the forfeiture of one-half of the Employees' Retirement System (ERS) benefits of an ERS member, former member, or retirant upon conviction of the individual for a felony related to the State or county employment of the individual. Authorizes designated beneficiaries to receive the ERS benefits to which the member, former member or retirant would be entitled under this section upon the death of the member, former member, or retirant. Prohibits designated beneficiaries convicted of a felony under the same set of circumstances as the member, former member, or retirant who was subject to forfeiture of ERS benefits from receiving benefits. Effective 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

