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## A BILL FOR AN ACT

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RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1       SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended  
2 by adding a new section to subpart C of part II to be  
3 appropriately designated and to read as follows:

4       "§88-       Forfeiture of benefits; felony convictions. (a)  
5 If a member, former member, or retirant is convicted of a felony  
6 and the court finds that the felony is related to the employment  
7 of the member, former member, or retirant by the State or any  
8 county, the court may decree, pursuant to section 706-605(8), a  
9 forfeiture by the member, former member, or retirant of all or a  
10 portion of any interest; hypothetical account balance in excess  
11 of the amount representing any employee contributions made by or  
12 on behalf of the member, former member, or retirant; pension;  
13 annuity; or retirement allowance to which the member, former  
14 member, or retirant may otherwise be entitled under this  
15 chapter; provided that upon the death of the member, former  
16 member, or retirant, the designated beneficiary of the member,  
17 former member, or retirant may receive benefits to which such  
18 beneficiary would otherwise be entitled under this chapter.



1        (b) Upon receipt of a certified copy of the order  
2        decreeing forfeiture, the system shall comply with the order and  
3        shall reduce, suspend, or deny payment to the member, former  
4        member, or retirant as provided in the order until such time as  
5        the system receives a certified order to:

6            (1) Increase, resume, or make payments to the member,  
7            former member, or retirant; or

8            (2) Quash or reverse the decree of forfeiture.

9        The system shall not be required to make inquiry into the  
10       propriety of the order decreeing forfeiture or recoup any  
11       payments made to the member, former member, or retirant prior to  
12       receipt by the system of the order decreeing forfeiture.

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

17            (1) Felonies in which state or county time, equipment, or  
18            other facilities are used in the commission of the  
19            felony;

20            (2) Bribery;



1       (3) Embezzlement, theft, or other unlawful taking,  
2       receiving, retaining, or failing to account properly  
3       for, any property or funds that belong to the State or  
4       any county or any department, bureau, board, or other  
5       agency thereof; or

6       (4) A felony committed against a person over whom the  
7       employee, in the course of the employee's duties,  
8       exercises custody or supervision.

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

11      (e) This section shall not apply to accrued retirement  
12      benefits that are non-forfeitable pursuant to sections 88-73(f),  
13      88-281(g), and 88-331(f)."

14      SECTION 2. New statutory material is underscored.

15      SECTION 3. This Act shall take effect on January 7, 2059.



**Report Title:**

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

**Description:**

Allows the court to decree a forfeiture by the member, former member, or retirant of all or a portion of any interest, hypothetical account balance (in excess of the amount representing any employee contributions made by or on behalf of the member, former member, or retirant), pension, annuity, or retirement allowance that the member, former member, or retirant may otherwise be entitled to if a member, former member, or retirant is convicted of a felony and the court finds that the felony is related to the employment of the member, former member, or retirant by the State or any county. Requires the employees' retirement system to comply with the court order and suspend or deny payment to the member, former member, or retirant as provided in the order. Effective date 1/7/59.  
(SD1)

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