

HOUSE BILL 572

K4

2lr0373

By: Delegates George, Afzali, Aumann, Barnes, Bates, Beidle, Beitzel, Bohanan, Boteler, Burns, Clagett, Cluster, Costa, Davis, DeBoy, Dwyer, Eckardt, Elliott, Feldman, Frank, Frick, Frush, Glass, Haddaway–Ricchio, Hershey, Hogan, Hough, Impallaria, Ivey, Jacobs, James, Kach, K. Kelly, Kipke, Krebs, Love, McComas, McConkey, McDermott, McMillan, W. Miller, Minnick, Murphy, Myers, Norman, O'Donnell, Olszewski, Otto, Parrott, Ready, B. Robinson, Schuh, Schulz, Serafini, Sophocleus, Stocksdale, Szeliga, Valentino–Smith, Vitale, Weir, Wood, and Zucker

Introduced and read first time: February 3, 2012

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Elected Public Officials – Criminal Acts – Forfeiture or Suspension of**
3 **Retirement Benefits**

4 FOR the purpose of subjecting certain retirement benefits of certain elected public
5 officials to forfeiture under certain circumstances related to the conviction of or
6 entry of a plea of nolo contendere for certain crimes; subjecting certain
7 retirement benefits of certain elected public officials when charged with certain
8 criminal offenses to suspension under certain circumstances; providing that
9 certain elected public officials may have certain retirement benefits restored
10 under certain circumstances; providing for the application of this Act; and
11 generally relating to the forfeiture or suspension of certain retirement benefits
12 of certain elected public officials after the charge of the commission of or the
13 conviction of certain criminal offenses.

14 BY adding to
15 Article – State Personnel and Pensions
16 Section 41–101 to be under the new title “Title 41. Forfeiture or Suspension of
17 Retirement Benefits”
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2011 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Personnel and Pensions

2 TITLE 41. FORFEITURE OR SUSPENSION OF RETIREMENT BENEFITS.

3 41-101.

4 (A) THIS SECTION APPLIES TO:

5 (1) ANY PUBLIC OFFICIAL ELECTED UNDER STATE, COUNTY, OR
6 MUNICIPAL LAW WHO TAKES PUBLIC OFFICE OR IS REELECTED TO PUBLIC
7 OFFICE ON OR AFTER JULY 1, 2012; AND

8 (2) RETIREMENT BENEFITS ACCRUED ON OR AFTER JULY 1, 2012.

9 (B) (1) RETIREMENT BENEFITS MAY NOT BE PAID AND ARE NOT
10 PAYABLE TO ANY ELECTED PUBLIC OFFICIAL DESCRIBED IN SUBSECTION (A) OF
11 THIS SECTION OR ANY BENEFICIARY OF AN ELECTED PUBLIC OFFICIAL IF THE
12 ELECTED PUBLIC OFFICIAL IS CONVICTED OF OR ENTERS A PLEA OF NOLO
13 CONTENDERE FOR ANY CRIME COMMITTED DURING THE TERM OF OFFICE OF
14 THE ELECTED PUBLIC OFFICIAL THAT IS:

15 (I) A FELONY; OR

16 (II) A MISDEMEANOR RELATED TO THE PUBLIC DUTIES AND
17 RESPONSIBILITIES OF THE ELECTED PUBLIC OFFICIAL THAT INVOLVES MORAL
18 TURPITUDE FOR WHICH THE PENALTY MAY BE IMPRISONMENT IN A
19 CORRECTIONAL FACILITY.

20 (2) A RETIRED ELECTED PUBLIC OFFICIAL AND THE
21 BENEFICIARY OF THE RETIRED ELECTED PUBLIC OFFICIAL ARE SUBJECT TO A
22 FORFEITURE OF BENEFITS IF THE RETIRED ELECTED PUBLIC OFFICIAL OR THE
23 OFFICIAL'S BENEFICIARY IS RECEIVING BENEFITS AT THE TIME THE RETIRED
24 ELECTED PUBLIC OFFICIAL IS CONVICTED OF OR ENTERS A PLEA OF NOLO
25 CONTENDERE FOR A CRIME DESCRIBED IN PARAGRAPH (1) OF THIS
26 SUBSECTION.

27 (3) IF AN ELECTED PUBLIC OFFICIAL OR A RETIRED ELECTED
28 PUBLIC OFFICIAL IS SUBJECT TO A FORFEITURE OF BENEFITS UNDER
29 PARAGRAPH (1) OR (2) OF THIS SUBSECTION, THE ELECTED PUBLIC OFFICIAL,
30 RETIRED ELECTED PUBLIC OFFICIAL, OR BENEFICIARY OF THE ELECTED
31 PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS ENTITLED ONLY
32 TO A RETURN OF THE ELECTED PUBLIC OFFICIAL'S OR RETIRED ELECTED

1 PUBLIC OFFICIAL'S ACCUMULATED CONTRIBUTIONS, PLUS INTEREST, LESS ANY
2 BENEFIT PAYMENTS ALREADY MADE.

3 (4) IF THE CONVICTION OF THE ELECTED PUBLIC OFFICIAL OR
4 RETIRED ELECTED PUBLIC OFFICIAL IS REVERSED OR OVERTURNED, THE
5 BENEFITS THAT ARE PAYABLE TO THE ELECTED PUBLIC OFFICIAL, RETIRED
6 ELECTED PUBLIC OFFICIAL, OR BENEFICIARY SHALL BE RESTORED.

7 (C) (1) THIS SUBSECTION APPLIES ONLY TO A CRIMINAL OFFENSE
8 THAT IS:

9 (I) A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE
10 CRIMINAL LAW ARTICLE;

11 (II) A SEXUAL OFFENSE, AS PROVIDED UNDER TITLE 3,
12 SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE; OR

13 (III) A CHILD PORNOGRAPHY OFFENSE, AS PROVIDED UNDER
14 § 11-207 OF THE CRIMINAL LAW ARTICLE.

15 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,
16 IF AN ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS
17 CHARGED WITH COMMITTING A CRIMINAL OFFENSE LISTED UNDER PARAGRAPH
18 (1) OF THIS SUBSECTION THAT OCCURRED WHILE THE ELECTED PUBLIC
19 OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL WAS IN OFFICE, RETIREMENT
20 BENEFITS SHALL BE SUSPENDED AND ARE NOT PAYABLE TO THE ELECTED
21 PUBLIC OFFICIAL, THE RETIRED ELECTED PUBLIC OFFICIAL, OR A BENEFICIARY
22 OF THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL.

23 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
24 IF THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL IS
25 ACQUITTED OF THE CHARGES OR THE CHARGES AGAINST THE ELECTED PUBLIC
26 OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL ARE DISMISSED OR PLACED
27 ON A STET DOCKET, THE RETIREMENT BENEFITS OF THE ELECTED PUBLIC
28 OFFICIAL OR RETIRED PUBLIC ELECTED OFFICIAL SHALL BE RESTORED.

29 (II) IF AT ANY TIME CHARGES FOR A CRIMINAL OFFENSE
30 THAT OCCURRED WHILE THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED
31 PUBLIC OFFICIAL ARE REMOVED FROM THE STET DOCKET FOR THE PURPOSES
32 OF RESUMING CRIMINAL PROCEEDINGS, THE PROVISIONS OF PARAGRAPH (2)
33 OF THIS SUBSECTION SHALL APPLY.

1 **(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
2 **IF THE CONVICTION OF AN ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED**
3 **PUBLIC OFFICIAL IS OVERTURNED ON APPEAL, THE RETIREMENT BENEFITS OF**
4 **THE ELECTED PUBLIC OFFICIAL OR RETIRED ELECTED PUBLIC OFFICIAL SHALL**
5 **BE RESTORED.**

6 **(II) IF THE CRIMINAL CASE ON FURTHER APPEAL IS**
7 **REMANDED FOR A NEW TRIAL, THE PROVISIONS OF PARAGRAPH (2) OF THIS**
8 **SUBSECTION SHALL APPLY.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on or application to any act committed before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
13 construed to prohibit a county or municipal corporation from enacting or enforcing any
14 law that is more stringent than this Act in relation to the forfeiture of retirement
15 benefits.

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2012.