

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 3

Senator Faber

**Cosponsors: Senators Schaffer, Stivers, Jacobson, Carey, Grendell,
Schuring**

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A B I L L

To amend sections 145.56, 145.95, 742.47, 2967.16, 1
2967.17, 3307.41, 3309.66, 3309.95, and 5505.22 2
and to enact sections 145.572, 742.463, 2907.151, 3
3307.372, 3309.672, and 5505.262 of the Revised 4
Code to provide that the privilege of holding a 5
position of honor, trust, or profit that is 6
forfeited by reason of conviction of a felony is 7
not restored on completion of a prison term, 8
period of community control sanctions or pardon or 9
release by the Adult Parole Authority and to 10
provide that the office holder will forfeit the 11
portion of any state retirement benefit that is 12
based on employer contributions. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 145.56, 145.95, 742.47, 2967.16, 14
2967.17, 3307.41, 3309.66, 3309.95, and 5505.22 be amended and 15
sections 145.572, 742.463, 2907.151, 3307.372, 3309.672, and 16
5505.262 of the Revised Code be enacted to read as follows: 17

Sec. 145.56. The right of an individual to a pension, an 18

annuity, or a retirement allowance itself, the right of an 19
individual to any optional benefit, any other right accrued or 20
accruing to any individual, under this chapter, or under any 21
municipal retirement system established subject to this chapter 22
under the laws of this state or any charter, the various funds 23
created by this chapter, or under such municipal retirement 24
system, and all moneys, investments, and income from moneys or 25
investments are exempt from any state tax, except the tax imposed 26
by section 5747.02 of the Revised Code and are exempt from any 27
county, municipal, or other local tax, except taxes imposed 28
pursuant to section 5748.02 or 5748.08 of the Revised Code and, 29
except as provided in sections 145.57, 145.572, 3105.171, 3105.65, 30
and 3115.32 and Chapters 3119., 3121., 3123., and 3125. of the 31
Revised Code, shall not be subject to execution, garnishment, 32
attachment, the operation of bankruptcy or insolvency laws, or 33
other process of law whatsoever, and shall be unassignable except 34
as specifically provided in this chapter and sections 3105.171, 35
3105.65, and 3115.32 and Chapters 3119., 3121., 3123., and 3125. 36
of the Revised Code. 37

Sec. 145.572. (A) As used in this section: 38

(1) "Position of honor, trust, or profit" has the same 39
meaning as in section 2967.16 of the Revised Code. 40

(2) "Accumulated contributions" has the same meaning as in 41
section 145.01 of the Revised Code, but also includes employee 42
contributions made under section 145.85 of the Revised Code and 43
any earnings on those contributions. 44

(B) A public employees retirement system member who pleads 45
guilty to or is convicted of a felony under the laws of any 46
jurisdiction committed while serving in a position of honor, 47
trust, or profit shall forfeit to the public employees retirement 48
system the right to a retirement allowance or disability benefit 49

or any other right or benefit under this chapter earned by reason 50
of being a member of the retirement system other than the member's 51
accumulated contributions. In the case of a member subject to 52
withholding under section 145.57 of the Revised Code for the 53
purpose of restitution, forfeiture shall commence immediately 54
following the completion of restitution. 55

(C) If the public employees retirement board receives notice 56
pursuant to section 2907.151 of the Revised Code or has knowledge 57
that a member is charged with a felony committed while serving in 58
a position of honor, trust, or profit, the board shall make no 59
payment of any allowance, benefit, or accumulated contributions 60
under this chapter prior to the final disposition of the felony 61
charge. Payments suspended under this division shall not resume 62
unless the charge is dismissed or the member is found not guilty 63
or not guilty by reason of insanity. 64

Sec. 145.95. Subject to sections 145.38, 145.56, and 145.57, 65
and 145.572 of the Revised Code, the right of a member 66
participating in a PERS defined contribution plan to any payment 67
or benefit accruing from contributions made by or on behalf of the 68
member under sections 145.85 and 145.86 of the Revised Code shall 69
vest in accordance with this section. 70

A member's right to any payment or benefit that is based on 71
the member's contributions is nonforfeitable. 72

A member's right to any payment or benefit that is based on 73
contributions by the member's employer is nonforfeitable as 74
specified by the plan selected by the member. 75

Sec. 742.463. (A) As used in this section: 76

(1) "Position of honor, trust, or profit" has the same 77
meaning as in section 2967.16 of the Revised Code. 78

(2) "Accumulated contributions" means the amount payable to a 79

member under division (G) of section 742.37 of the Revised Code. 80

(B) An Ohio police and fire pension fund member who pleads 81
guilty to or is convicted of a felony under the laws of any 82
jurisdiction committed while serving in a position of honor, 83
trust, or profit shall forfeit to the Ohio police and fire pension 84
fund the right to a pension or disability benefit or any other 85
right or benefit under this chapter earned by reason of being a 86
member of the fund other than the member's accumulated 87
contributions. In the case of a member subject to withholding 88
under section 742.461 of the Revised Code for the purpose of 89
restitution, forfeiture shall commence immediately following the 90
completion of restitution. 91

(C) If the Ohio police and fire pension fund board receives 92
notice pursuant to section 2907.151 of the Revised Code or has 93
knowledge that a member is charged with a felony committed while 94
serving in a position of honor, trust, or profit, the board shall 95
make no payment of any pension, benefit, or accumulated 96
contributions under this chapter prior to the final disposition of 97
the felony charge. Payments suspended under this division shall 98
not resume unless the charge is dismissed or the member is found 99
not guilty or not guilty by reason of insanity. 100

Sec. 742.47. Except as provided in ~~section~~ sections 742.461, 101
742.463, 3105.171, 3105.65,⁷ and 3115.32 and Chapters 3119., 102
3121., 3123., and 3125. of the Revised Code, sums of money due or 103
to become due to any individual from the Ohio police and fire 104
pension fund are not liable to attachment, garnishment, levy, or 105
seizure under any legal or equitable process or any other process 106
of law whatsoever, whether those sums remain with the treasurer of 107
the fund or any officer or agent of the board of trustees of the 108
fund or are in the course of transmission to the individual 109
entitled to them, but shall inure wholly to the benefit of that 110

individual. 111

Sec. 2907.151. "Public retirement system" and "prosecutor" 112
have the same meaning as in section 2907.15 of the Revised Code. 113

"Position of honor, trust, or profit" has the same meaning as 114
in section 2967.16 of the Revised Code. 115

If the prosecutor of a felony case has knowledge that the 116
person charged holds a position of honor, trust, or profit, the 117
prosecutor shall notify the board of any public retirement system 118
of which the person is a member. 119

The notice shall be made on a form prescribed and provided by 120
the applicable public retirement system board. The report shall 121
include the name and address of the person charged, the charge, 122
and the certified court documents recording the action. 123

Sec. 2967.16. (A) Except as provided in division (D) of this 124
section, when a paroled prisoner has faithfully performed the 125
conditions and obligations of the paroled prisoner's parole and 126
has obeyed the rules and regulations adopted by the adult parole 127
authority that apply to the paroled prisoner, the authority upon 128
the recommendation of the superintendent of parole supervision may 129
enter upon its minutes a final release and thereupon shall issue 130
to the paroled prisoner a certificate of final release, but the 131
authority shall not grant a final release earlier than one year 132
after the paroled prisoner is released from the institution on 133
parole, and, in the case of a paroled prisoner whose minimum 134
sentence is life imprisonment, the authority shall not grant a 135
final release earlier than five years after the paroled prisoner 136
is released from the institution on parole. 137

(B)(1) When a prisoner who has been released under a period 138
of post-release control pursuant to section 2967.28 of the Revised 139
Code has faithfully performed the conditions and obligations of 140

the released prisoner's post-release control sanctions and has 141
obeyed the rules and regulations adopted by the adult parole 142
authority that apply to the released prisoner or has the period of 143
post-release control terminated by a court pursuant to section 144
2929.141 of the Revised Code, the authority, upon the 145
recommendation of the superintendent of parole supervision, may 146
enter upon its minutes a final release and, upon the entry of the 147
final release, shall issue to the released prisoner a certificate 148
of final release. In the case of a prisoner who has been released 149
under a period of post-release control pursuant to division (B) of 150
section 2967.28 of the Revised Code, the authority shall not grant 151
a final release earlier than one year after the released prisoner 152
is released from the institution under a period of post-release 153
control. The authority shall classify the termination of 154
post-release control as favorable or unfavorable depending on the 155
offender's conduct and compliance with the conditions of 156
supervision. In the case of a released prisoner whose sentence is 157
life imprisonment, the authority shall not grant a final release 158
earlier than five years after the released prisoner is released 159
from the institution under a period of post-release control. 160

(2) The department of rehabilitation and correction, no later 161
than six months after ~~the effective date of this section~~ July 8, 162
2002, shall adopt a rule in accordance with Chapter 119. of the 163
Revised Code that establishes the criteria for the classification 164
of a post-release control termination as "favorable" or 165
"unfavorable." 166

(C)(1) As used in this division, "position of honor, trust, 167
or profit" means an elective office of the state or any political 168
subdivision thereof. 169

(2) The following prisoners or person shall be restored to 170
the rights and privileges forfeited by a conviction except the 171
privilege of holding an office of honor, trust, or profit: 172

~~(1)~~(a) A prisoner who has served the entire prison term that 173
comprises or is part of the prisoner's sentence and has not been 174
placed under any post-release control sanctions; 175

~~(2)~~(b) A prisoner who has been granted a final release by the 176
adult parole authority pursuant to division (A) or (B) of this 177
section; 178

~~(3)~~(c) A person who has completed the period of a community 179
control sanction or combination of community control sanctions, as 180
defined in section 2929.01 of the Revised Code, that was imposed 181
by the sentencing court. 182

(D) Division (A) of this section does not apply to a prisoner 183
in the shock incarceration program established pursuant to section 184
5120.031 of the Revised Code. 185

(E) The adult parole authority shall record the final release 186
of a parolee or prisoner in the official minutes of the authority. 187

Sec. 2967.17. (A) The adult parole authority, in its 188
discretion, may grant an administrative release to any of the 189
following: 190

(1) A parole violator or release violator serving another 191
felony sentence in a correctional institution within or without 192
this state for the purpose of consolidation of the records or if 193
justice would best be served; 194

(2) A parole violator at large or release violator at large 195
whose case has been inactive for at least ten years following the 196
date of declaration of the parole violation or the violation of a 197
post-release control sanction; 198

(3) A parolee taken into custody by the immigration and 199
naturalization service of the United States department of justice 200
and deported from the United States. 201

(B)(1) As used in this division, "position of honor, trust, 202

or profit" means an elective office of the state or any political 203
subdivision thereof. 204

(2) The adult parole authority shall not grant an 205
administrative release except upon the concurrence of a majority 206
of the parole board and approval of the chief of the adult parole 207
authority. An administrative release does not restore for the 208
person to whom it is granted the rights and privileges forfeited 209
by conviction as provided in section 2961.01 of the Revised Code. 210
Any person granted an administrative release under this section 211
may subsequently apply for a commutation of sentence for the 212
purpose of regaining the rights and privileges forfeited by 213
conviction, except that the ~~privilege~~ privileges of holding an 214
office of honor, trust, or profit and of circulating or serving as 215
a witness for the signing of any declaration of candidacy and 216
petition, voter registration application, or nominating, 217
initiative, referendum, or recall petition forfeited under section 218
2961.01 of the Revised Code may not be restored under this 219
section. 220

Sec. 3307.372. (A) As used in this section: 221

(1) "Position of honor, trust, or profit" has the same 222
meaning as in section 2967.16 of the Revised Code. 223

(2) "Accumulated contributions" has the same meaning as in 224
section 3307.50 of the Revised Code, but also includes any 225
employee contributions made under section 3307.26 of the Revised 226
Code to participate in a plan established under section 3307.81 of 227
the Revised Code and any earnings on those contributions. 228

(B) A state teachers retirement system member who pleads 229
guilty to or is convicted of a felony under the laws of any 230
jurisdiction committed while serving in a position of honor, 231
trust, or profit shall forfeit to the state teachers retirement 232
system the right to a retirement allowance or disability benefit 233

or any other right or benefit under this chapter that was earned 234
by reason of being a member of the retirement system other than 235
the member's accumulated contributions. In the case of a member 236
subject to withholding under section 3307.37 of the Revised Code 237
for the purpose of restitution, forfeiture shall commence 238
immediately following the completion of restitution. 239

(C) If the state teachers retirement board receives notice 240
pursuant to section 2907.151 of the Revised Code or has knowledge 241
that a member is charged with a felony committed while serving in 242
a position of honor, trust, or profit, the board shall make no 243
payment of any allowance, benefit, or accumulated contributions 244
under this chapter prior to the final disposition of the felony 245
charge. Payments suspended under this division shall not resume 246
unless the charge is dismissed or the member is found not guilty 247
or not guilty by reason of insanity. 248

Sec. 3307.41. The right of an individual to a pension, an 249
annuity, or a retirement allowance itself, the right of an 250
individual to any optional benefit, or any other right or benefit 251
accrued or accruing to any individual under this chapter, the 252
various funds created by section 3307.14 of the Revised Code, and 253
all moneys, investments, and income from moneys or investments are 254
exempt from any state tax, except the tax imposed by section 255
5747.02 of the Revised Code, and are exempt from any county, 256
municipal, or other local tax, except taxes imposed pursuant to 257
section 5748.02 or 5748.08 of the Revised Code, and, except as 258
provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 259
3121.02, 3121.03, 3123.06, ~~and~~ 3307.37, and 3307.372 of the 260
Revised Code, shall not be subject to execution, garnishment, 261
attachment, the operation of bankruptcy or insolvency laws, or any 262
other process of law whatsoever, and shall be unassignable except 263
as specifically provided in this chapter or sections 3105.171, 264
3105.65, ~~and~~ 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 265

3123.06 of the Revised Code. 266

Sec. 3309.66. The right of an individual to a pension, an 267
annuity, or a retirement allowance itself, the right of an 268
individual to any optional benefit, any other right accrued or 269
accruing to any individual under this chapter, the various funds 270
created by section 3309.60 of the Revised Code, and all moneys, 271
investments, and income from moneys and investments are exempt 272
from any state tax, except the tax imposed by section 5747.02 of 273
the Revised Code, and are exempt from any county, municipal, or 274
other local tax, except taxes imposed pursuant to section 5748.02 275
or 5748.08 of the Revised Code, and, except as provided in 276
sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 277
3121.03, 3123.06, ~~and~~ 3309.67, and 3309.672 of the Revised Code, 278
shall not be subject to execution, garnishment, attachment, the 279
operation of bankruptcy or insolvency laws, or any other process 280
of law whatsoever, and shall be unassignable except as 281
specifically provided in this chapter ~~or~~ and in sections ~~and~~ 282
3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 283
and 3123.06 of the Revised Code. 284

Sec. 3309.672. (A) As used in this section: 285

(1) "Position of honor, trust, or profit" has the same 286
meaning as in section 2967.16 of the Revised Code. 287

(2) "Accumulated contributions" has the same meaning as in 288
section 3309.01 of the Revised Code, but also includes any 289
employee contributions made under section 3309.85 of the Revised 290
Code and any earnings on those contributions. 291

(B) A school employees retirement system member who pleads 292
guilty to or is convicted of any felony under the laws of any 293
jurisdiction committed while serving in a position of honor, 294
trust, or profit shall forfeit to the school employees retirement 295

system the right to a retirement allowance or disability benefit 296
or any other right or benefit under this chapter that was earned 297
by reason of being a member of the retirement system other than 298
the member's accumulated contributions. In the case of a member 299
subject to withholding under section 3309.67 of the Revised Code 300
for the purpose of restitution, forfeiture shall commence 301
immediately following the completion of restitution. 302

(C) If the school employees retirement board receives notice 303
pursuant to section 2907.151 of the Revised Code or has knowledge 304
that a member is charged with a felony committed while serving in 305
a position of honor, trust, or profit, the board shall make no 306
payment of any allowance, benefit, or accumulated contributions 307
under this chapter prior to the final disposition of the felony 308
charge. Payments suspended under this division shall not resume 309
unless the charge is dismissed or the person is found not guilty 310
or not guilty by reason of insanity. 311

Sec. 3309.95. Subject to sections 3309.341, 3309.66, ~~and~~ 312
3309.67, and 3309.672 of the Revised Code, the right of a member 313
participating in a plan established under section 3309.81 of the 314
Revised Code to any payment or benefit accruing from contributions 315
made by or on behalf of the member under sections 3309.85 and 316
3309.86 of the Revised Code shall vest in accordance with this 317
section. 318

A member's right to any payment or benefit that is based on 319
the member's contributions is nonforfeitable. 320

A member's right to any payment or benefit that is based on 321
contributions by the member's employer is nonforfeitable as 322
specified by the plan selected by the member. 323

Sec. 5505.22. The right of any individual to a pension, or to 324
the return of accumulated contributions, payable as provided under 325

this chapter, and all moneys and investments of the state highway patrol retirement system and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except taxes imposed pursuant to section 5748.02 or 5748.08 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, ~~and 5505.26,~~ and 5505.262 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter.

Sec. 5505.262. (A) As used in this section, "position of honor, trust, or profit" has the same meaning as in section 2967.16 of the Revised Code.

(B) A state highway patrol retirement system member who pleads guilty to or is convicted of a felony under the laws of any jurisdiction committed while serving in a position of honor, trust, or profit shall forfeit to the state highway patrol retirement system the right to a pension or disability benefit or any other right or benefit under this chapter earned by reason of being a member of the retirement system other than the member's accumulated contributions. In the case of a member subject to withholding under section 5505.26 of the Revised Code for the purpose of restitution, forfeiture shall commence immediately following the completion of restitution.

(C) If the state highway patrol retirement board receives notice pursuant to section 2907.151 of the Revised Code or has knowledge that a member is charged with a felony committed while serving in a position of honor, trust, or profit, the board shall make no payment of any pension, benefit, or accumulated

contributions under this chapter prior to the final disposition of 357
the felony charge. Payments suspended under this division shall 358
not resume unless the charge is dismissed or the person is found 359
not guilty or not guilty by reason of insanity. 360

Section 2. That existing sections 145.56, 145.95, 742.47, 361
2967.16, 2967.17, 3307.41, 3309.66, 3309.95, and 5505.22 of the 362
Revised Code are hereby repealed. 363

Section 3. The General Assembly, applying the principle 364
stated in division (B) of section 1.52 of the Revised Code that 365
amendments are to be harmonized if reasonably capable of 366
simultaneous operation, finds that the following sections, 367
presented in this act as composites of the sections as amended by 368
the acts indicated, are the resulting versions of the sections in 369
effect prior to the effective date of the sections as presented in 370
this act: 371

Section 742.47 of the Revised Code as amended by both Sub. 372
H.B. 535 and Am. Sub. S.B. 180 of the 123th General Assembly. 373

Section 3307.41 of the Revised Code as amended by both Sub. 374
H.B. 535 and Am. Sub. S.B. 180 of the 123th General Assembly. 375

Section 3309.66 of the Revised Code as amended by Sub. H.B. 376
535, Am. Sub. S.B. 180, and Sub. S.B. 270 of the 123th General 377
Assembly. 378

Section 5505.22 of the Revised Code as amended by both Sub. 379
H.B. 535 and Am. Sub. S.B. 180 of the 123th General Assembly. 380