

JAN 17 2020

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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. 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, by a preponderance of the evidence,  
7 the felony is related to the employment of the member, former  
8 member, or retirant by the State or any county, the court may  
9 decree a civil penalty, pursuant to section 706-605(8), of  
10 forfeiture by the member, former member, or retirant of all or a  
11 portion of any:

- 12           (1) Interest;  
13           (2) Hypothetical account balance in excess of the amount  
14           representing any employee contributions made by or on  
15           behalf of the member, former member, or retirant;  
16           (3) Pension;  
17           (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 may receive benefits  
6       to which such beneficiary would otherwise be entitled under this  
7       chapter; provided further that the designated beneficiary was  
8       not also convicted of a felony based on the same set of  
9       circumstances as the member, former member, or retirant  
10      penalized under this section.

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

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

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

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



1 payments made to the member, former member, retirant, or  
2 designated beneficiary prior to receipt by the system of the  
3 order decreeing forfeiture.

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

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

11 (2) Bribery;

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

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

20 (d) This section shall not impair or diminish benefits  
21 accrued prior to the effective date of Act , Session Laws of



# S.B. NO. 2675

1 Hawaii 2020. This section shall not apply to felonies committed  
 2 prior to the effective date of Act , Session Laws of Hawaii  
 3 2020.

4 (e) This section shall not apply to accrued retirement  
 5 benefits that are non-forfeitable pursuant to sections 88-73(f),  
 6 88-281(g), and 88-331(f)."

7 SECTION 2. New statutory material is underscored.

8 SECTION 3. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:

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# S.B. NO. 2675

**Report Title:**

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

**Description:**

Authorizes forfeiture of certain ERS benefits, pursuant to court order, for state or county employees and designated beneficiaries who are convicted of an employment-related felony.

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