

AN ACT relating to forfeiture of retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) A judge or justice or former judge or justice with an account in the Judicial Retirement Plan who began participating in the plan on or after July 1, 2015, who is convicted in any state or federal court of competent jurisdiction of a felony relating to his or her duties as a judge or justice or who is convicted in any state court of competent jurisdiction of a Class A, B, or C felony not related to his or her duties as a judge or justice, shall:

(a) Cease membership in the Judicial Retirement Plan; and

(b) Forfeit all rights and benefits earned under the Judicial Retirement Plan, except for the return of his or her accumulated contributions and interest credited on those contributions.

(2) The payment of retirement benefits ordered forfeited under this section shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

(3) The Administrative Office of the Courts shall notify the Judicial Retirement Plan when a current or former judge or justice is convicted of a felony subject to this section.

➔Section 2. KRS 6.696 is amended to read as follows:

(1) A legislator or former legislator who is convicted of a felony relating to his or her duties as a legislator, in any state or federal court of competent jurisdiction, or who began participating in the Legislators' Retirement Plan or the Kentucky Employees Retirement System for his or her service to the General Assembly on or after July 1, 2015, and is subsequently convicted in any state court of competent jurisdiction of a Class A, B, or C felony not related to his or her duties

as a legislator, shall:

- (a) Cease membership in any state-administered retirement plan or system in which he or she is participating as a result of his or her service to the General Assembly; and
- (b) Forfeit all rights and benefits earned after September 16, 1993, under the state[-]-administered retirement plan or system in[-to] which he or she is participating[-contributions have been made] as a result of his or her service in the General Assembly, except for the return of his or her accumulated contributions and interest credited on those contributions.
- (2) The payment of retirement benefits ordered forfeited under this section shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.
- (3) The Legislative Research Commission shall notify the appropriate retirement system or plan when a current or former legislator is convicted of a felony subject to this section.

➔Section 3. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he or she makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he or she shall pay to the Legislators' Retirement

Plan, for the months between July 1, 1980, and the date of his *or her* election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he *or she* shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.

- (b) 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530, **except as provided by Section 2 of this Act.**
2. a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.

- b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
 - c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
 - d. The provisions of this subsection shall not be construed to limit the provisions governing forfeiture of membership, rights, and benefits under Section 2 of this Act.**
3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
 - (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
 - (d) Notwithstanding the provisions of this subsection:
 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount

equal to six percent (6%) of his *or her* monthly creditable compensation, as defined in KRS 61.510(13).

2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577, ***except as provided by Section 2 of this Act.***
- (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his *or her* active membership

in the Kentucky Employees Retirement System shall terminate, as of the date his or her membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he or she then has or which he or she subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he or she then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement

system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his or her active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his or her membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he or she then has or which he or she subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he or she then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service,

rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 4. KRS 16.652 is amended to read as follows:

- (1) For members who begin participating in the State Police Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, KRS 16.510 to 16.645, except as provided in KRS 6.696 and Section 8 of this Act~~[effective September 16, 1993]~~, shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696 and Section 8 of this Act, not be subject to reduction or impairment by alteration, amendment or repeal.
- (2)
 - (a) For members who begin participating in the State Police Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 16.505 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
 - (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to

the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.

- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 16.505 to 16.652, for members who begin participating in the State Police Retirement System on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.

(d) The provisions of this subsection shall not be construed to limit the provisions governing forfeiture of membership and benefits under Section 8 of this Act.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the State Police Retirement System as provided by KRS 16.505 to 16.652 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 5. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or

3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
 - a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.
- (2) A judge or justice entitled to elect membership in the retirement system who failed

to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510, except as provided by Section 1 of this Act.

- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.
- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the

judge elects membership in the Judicial Retirement Plan.

- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement System in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining

tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 6. KRS 21.470 is amended to read as follows:

All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.510 are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment or any other process whatsoever, nor shall any assignment thereof be enforceable in any court[-] except:

(1) Retirement benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.510 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215; and

(2) As provided in Sections 1 and 2 of this Act.

➔Section 7. KRS 21.480 is amended to read as follows:

- (1) For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014, it is hereby declared that in consideration of the contributions by

the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced judges and commissioners to continue in service, KRS 21.350 to 21.510, except as provided in KRS 6.696 *and Section 1 of this Act*, shall constitute an inviolable contract of the Commonwealth, and the rights and benefits provided therein shall, except as provided in KRS 6.696 *and Section 1 of this Act*, not be subject to reduction or impairment by alteration, amendment or repeal.

- (2) (a) For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 21.345 to 21.580 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 21.345 to 21.580, for members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (d) The provisions of this subsection shall not be construed to limit the provisions governing forfeiture of membership, benefits, and rights under Section 1 or 2 of this Act.*
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the

Judicial Retirement Plan as provided by KRS 21.345 to 21.580 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 8. KRS 61.535 is amended to read as follows:

- (1) The membership of any person in the system shall cease:
 - (a) Upon withdrawal of his or her accumulated account balance at or any time after termination of employment, regardless of length of service;
 - (b) Upon disability retirement;
 - (c) Upon service retirement;
 - (d) Upon death;
 - (e) For persons hired prior to August 1, 2000, upon termination of employment with prejudice; or
 - (f) For persons hired on or after August 1, 2000, upon conviction of a felony ~~relating to the person's employment~~ as provided in subsection (3) of this section.
- (2) For purposes of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.
- (3) (a) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in one (1) of the retirement systems administered by the Kentucky Retirement Systems and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment or who, if the employee's membership date in the systems is on or after July 1, 2015, is convicted in any state court of competent jurisdiction of a Class A, B, or C felony not related to his or her

employment, shall forfeit all rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.

(b) The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited.

(c) The employer shall notify the retirement system when an employee is convicted under the provisions of this subsection.

➔Section 9. KRS 61.690 is amended to read as follows:

- (1) Except as otherwise provided by this section, subsection (3) of Section 8 of this Act, and KRS 61.705(4), all retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated account balance and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and shall not be assigned.
- (2) Notwithstanding the provisions of subsection (1) of this section, retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
 - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)

- in administering qualified domestic relations orders;
- (b) The order meets the requirements established by the retirement system and by subsections (3) to (11) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations orders by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
 - (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (3)(b) of this subsection.
- (4) A qualified domestic relations order shall not:
- (a) Require the retirement system to take any action not authorized under state or federal law;
 - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;
 - (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the retirement system and as provided by subsections (3) to (11) of this section; or
 - (d) Grant any separate interest to any person other than the participant.
- (5) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not

follow the requirements set forth in the administrative regulations promulgated by the board of trustees.

- (6) If the qualified domestic relations order meets the requirements established by the system and by subsections (3) to (11) of this section, payments to the alternate payee shall begin under the following conditions:
 - (a) If the participant is retired and is receiving a monthly retirement allowance, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (3) to (11) of this section; or
 - (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of his or her accumulated account balance as provided by KRS 61.625.
- (7) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
 - (a) The death of the participant;
 - (b) The death of the alternate payee; or
 - (c) The termination of the participant's benefits under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
- (8) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (9) The cost of living adjustment provided to the participant pursuant to KRS 61.691 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
 - (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided

between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

(b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:

1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.

(10) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

- (a) Solely by the participant;
- (b) Solely by the alternate payee; or
- (c) Equally shared by the participant and alternate payee.

(11) The retirement system shall honor a qualified domestic relations order issued prior

to July 15, 2010, if:

- (a) The order was on file and approved by the retirement system prior to July 15, 2010. All benefits, including cost of living adjustments payable to the alternate payee, for orders that meet the requirements of this paragraph shall not be eliminated or reduced as a result of the provisions of subsections (3) to (10) of this section and KRS 61.510(27) and 78.510(26); or
- (b) The order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

➔Section 10. KRS 61.692 is amended to read as follows:

- (1) For members who begin participating in the Kentucky Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to 61.705 shall, except as provided in KRS 6.696 ***and Section 8 of this Act***~~[effective September 16, 1993]~~, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696 ***and Section 8 of this Act***, not be subject to reduction or impairment by alteration, amendment, or repeal.
- (2)
 - (a) For members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
 - (b) For purposes of this subsection, the amount of benefits the member has

accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.

- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 61.510 to 61.705, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014.

(d) The provisions of this subsection shall not be construed to limit the provisions governing forfeiture of membership and benefits under Section 8 of this Act.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 11. KRS 78.852 is amended to read as follows:

- (1) For members who begin participating in the County Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall, except as provided in KRS 6.696 **and Section 8 of this Act**~~effective September 16, 1993~~, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696 **and Section 8 of this Act**, not be subject to reduction or impairment by alteration, amendment, or repeal.
- (2) (a) For members who begin participating in the County Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to

amend, suspend, or reduce the benefits and rights provided under KRS 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.

- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 78.510 to 78.852, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the County Employees Retirement System on or after January 1, 2014.

(d) The provisions of this subsection shall not be construed to limit the provisions governing forfeiture of membership and benefits under Section 8 of this Act.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the County Employees Retirement System as provided by KRS 78.510 to 78.852 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 12. KRS 161.470 is amended to read as follows:

- (1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take

whatever action that may be necessary to correct any error relating to membership.

- (2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his or her deposits may repay the system the amount withdrawn plus interest and reestablish his or her service credit as provided in subsection (3) of this section.
- (3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.
- (4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.
- (5) Membership in the retirement system shall be terminated:
 - (a) By retirement for service;
 - (b) By death;
 - (c) By withdrawal of the member's accumulated contributions;
 - (d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or
 - (e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment, or for persons who began participating in the system on or after July 1, 2015, when the person is convicted in any state court of

competent jurisdiction of a Class A, B, or C felony not related to his or her employment, as provided in subparagraphs 1. ~~to 3.~~ ~~[and 2.]~~ of this paragraph.

1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his **or her** employment, **or who, if the member began participating in the system on or after July 1, 2015, is convicted in any state court of competent jurisdiction of a Class A, B, or C felony not related to his or her employment,** shall forfeit rights and benefits earned under the retirement system, except for the return of his **or her** accumulated contributions and interest credited on those contributions.
2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.
3. **The employer shall notify the system when a member is convicted of a felony subject to the provisions of this paragraph.**

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

- (6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his **or her** accumulated contributions with regular interest, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state with a view to his **or her** retirement or to contributions made to the medical insurance fund. If the member is eligible for an

immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his or her service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. A member may not withdraw any part of his or her contributions to the retirement system except as provided by this subsection.

- (7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary, all of his or her accumulated contributions, with regular interest, including any payments made by the member to the state accumulation fund, but the estate or beneficiary shall have no claim on any contributions made by the state with a view to the retirement of the member or to contributions made to the medical insurance fund.
- (8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

➔Section 13. KRS 161.530 is amended to read as follows:

Except as provided in KRS 6.696 and subsection (5)(e) of Section 12 of this Act, if a member, whose account has been forfeited under previous provisions of this section, shall return to teaching in a covered position in Kentucky, and reinstates the lost service credit as provided in KRS 161.470(3), the funds transferred from the member's account shall be

restored to his or her account, without interest, and shall be credited against the payment required for reinstatement of service credit.

➔Section 14. KRS 161.700 is amended to read as follows:

- (1) Except as otherwise provided by this section, subsection (5)(e) of Section 12 of this Act, and KRS 161.655(5), the right of a member to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under KRS 161.220 to 161.716, and the money in the various funds established pursuant to KRS 161.220 to 161.716 are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment, or other process, and shall not be assigned.
- (2) Notwithstanding subsection (1) of this section, retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1), except to the extent permitted under KRS 403.190(4). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d), except to the extent permitted under KRS 403.190(4).
- (4) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
 - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)

- in administering qualified domestic relations orders;
- (b) The order meets the requirements established by the retirement system and by subsections (4) to (12) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations order by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
 - (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (b) of this subsection.
- (5) A qualified domestic relations order shall not:
- (a) Require the retirement system to take any action not authorized under state or federal law;
 - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;
 - (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the system and as provided by subsections (4) to (12) of this section; or
 - (d) Grant any separate interest to any person other than the participant.
- (6) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by

the board of trustees.

- (7) If the qualified domestic relations order meets the requirements established by the system and by subsections (4) to (12) of this section, payments to the alternate payee shall be distributed under the following conditions:
 - (a) If the participant is retired and is receiving a monthly benefit, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (4) to (12) of this section; or
 - (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of contributions as provided by KRS 161.470(6).
- (8) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
 - (a) The death of the participant;
 - (b) The death of the alternate payee; or
 - (c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.
- (9) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (10) The cost of living adjustment provided to the participant pursuant to KRS 161.620 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
 - (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the

date the order is approved by the retirement system, whichever is later; or

(b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:

1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.

(11) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

- (a) Solely by the participant;
- (b) Solely by the alternate payee; or
- (c) Equally shared by the participant and alternate payee.

(12) The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, for prospective benefit payments if the order or an amended version of the order meets the requirements established by this section and the

administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

➔Section 15. KRS 161.714 is amended to read as follows:

It is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 to 161.710 shall constitute, except as provided in KRS 6.696 **and subsection (5)(e) of Section 12 of this Act**, an inviolable contract of the Commonwealth, and the benefits provided herein shall, except as provided in KRS 6.696 **and subsection (5)(e) of Section 12 of this Act**, not be subject to reduction or impairment by alteration, amendment, or repeal.