

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3766**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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ADOPTED MAY 10, 2018

**Sponsored by:**

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**District 2 (Atlantic)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

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**District 5 (Camden and Gloucester)**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Co-Sponsored by:**

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**SYNOPSIS**

Requires public officer or employee to forfeit pension upon conviction for corruption of public resources, sexual contact, lewdness, or sexual assault when offense involves or touches upon public office or employment.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on May 24, 2018.

**(Sponsorship Updated As Of: 5/31/2019)**

1 AN ACT concerning forfeiture of public pensions for conviction of  
2 certain crimes involving or touching such public office or  
3 employment and amending P.L.2007, c.49.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 2 of P.L.2007, c.49 (C.43:1-3.1) is amended to read  
9 as follows:

10 2. a. A person who holds or has held any public office,  
11 position, or employment, elective or appointive, under the  
12 government of this State or any agency or political subdivision  
13 thereof, who is convicted of any crime set forth in subsection b. of  
14 this section, or of a substantially similar offense under the laws of  
15 another state or the United States which would have been such a  
16 crime under the laws of this State, which crime or offense involves  
17 or touches such office, position or employment, shall forfeit all of  
18 the pension or retirement benefit earned as a member of any State  
19 or locally-administered pension fund or retirement system in which  
20 he participated at the time of the commission of the offense and  
21 which covered the office, position or employment involved in the  
22 offense. As used in this section, a crime or offense that "involves  
23 or touches such office, position or employment" means that the  
24 crime or offense was related directly to the person's performance in,  
25 or circumstances flowing from, the specific public office or  
26 employment held by the person.

27 b. Subsection a. of this section applies to a conviction of any of  
28 the following crimes:

29 (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal  
30 coercion;

31 (2) N.J.S.2C:20-4, theft by deception, if the amount involved  
32 exceeds \$10,000;

33 (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;

34 (4) N.J.S.2C:20-9, theft by failure to make required disposition  
35 of property received, if the amount involved exceeds \$10,000;

36 (5) N.J.S.2C:21-10, commercial bribery;

37 (6) Section 3 of P.L.1994, c.121 (C.2C:21-25), money  
38 laundering;

39 (7) Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract  
40 payment claims;

41 (8) N.J.S.2C:27-2, bribery in official matters;

42 (9) N.J.S.2C:27-3, threats and other improper influence in  
43 official and political matters;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted May 24, 2018.

- 1 (10) Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful
- 2 official business transaction where interest is involved;
- 3 (11) Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or
- 4 receipt of unlawful benefit by public servant for official behavior;
- 5 (12) Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of
- 6 unlawful benefit to public servant for official behavior;
- 7 (13) N.J.S.2C:28-1, perjury;
- 8 (14) N.J.S.2C:28-5, tampering with witnesses;
- 9 (15) N.J.S.2C:28-7, tampering with public records or
- 10 information;
- 11 (16) N.J.S.2C:29-4, compounding;
- 12 (17) N.J.S.2C:30-2, official misconduct;
- 13 (18) N.J.S.2C:30-3, speculating or wagering on official action
- 14 or information; **[or]**
- 15 (19) Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official
- 16 misconduct;
- 17 (20) Paragraph (1) of subsection a. of section 1 of P.L.2007,
- 18 c.158 (C.2C:27-12), corruption of public resources, if the amount or
- 19 value of the public resource is \$500,000 or more;
- 20 (21) <sup>1</sup>N.J.S.2C:33-4, harassment;
- 21 (22)<sup>1</sup> N.J.S.2C:14-2, sexual assault;
- 22 <sup>1</sup>(23)<sup>1</sup> (22)<sup>1</sup> N.J.S.2C:14-3, sexual contact; or
- 23 <sup>1</sup>(24)<sup>1</sup> (23)<sup>1</sup> N.J.S.2C:14-4, lewdness.
- 24 c. A court of this State shall enter an order of pension
- 25 forfeiture pursuant to this section:
- 26 (1) Immediately upon a finding of guilt by the trier of fact or a
- 27 plea of guilty entered in any court of this State unless the court, for
- 28 good cause shown, orders a stay of the pension forfeiture pending a
- 29 hearing on the merits at the time of sentencing; or
- 30 (2) Upon application of the county prosecutor or the Attorney
- 31 General, when the pension forfeiture is based upon a conviction of
- 32 an offense under the laws of another state or of the United States.
- 33 An order of pension forfeiture pursuant to this paragraph shall be
- 34 deemed to have taken effect on the date the person was found guilty
- 35 by the trier of fact or pled guilty to the offense.
- 36 d. No court shall grant a stay of an order of pension forfeiture
- 37 pending appeal of a conviction or pension forfeiture order unless
- 38 the court is clearly convinced that there is a substantial likelihood of
- 39 success on the merits. If the conviction be reversed or the order of
- 40 pension forfeiture be overturned, his pension rights and benefits
- 41 shall be restored from the date of pension forfeiture.
- 42 e. Nothing in this section shall be deemed to preclude the
- 43 authority of the board of trustees of any State or locally-
- 44 administered pension fund or retirement system created under the
- 45 laws of this State from ordering the forfeiture of all or part of the
- 46 earned service credit or pension or retirement benefit of any
- 47 member of the fund or system for misconduct occurring during the

1 member's public service pursuant to the provisions of P.L.1995,  
2 c.408 (C.43:1-3 et seq.), including in a case where the court does  
3 not enter an order of forfeiture pursuant to this section.  
4 (cf: P.L.2007, c.49, s.2)

5

6 2. This act shall take effect immediately.