

SENATE BILL 147

K4
SB 1031/16 – B&T

7lr1910
CF 7lr1954

By: **Senator McFadden**

Introduced and read first time: January 16, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers' Retirement System – Deferred Retirement Option**
3 **Program**

4 FOR the purpose of establishing a Deferred Retirement Option Program (DROP) for certain
5 members in the Correctional Officers' Retirement System; requiring the State
6 Retirement Agency to request certain documentation from the Internal Revenue
7 Service; making this Act subject to a certain contingency; and generally relating to
8 establishing a DROP for members of the Correctional Officers' Retirement System.

9 BY renumbering

10 Article – State Personnel and Pensions
11 Section 25–401.1
12 to be Section 25–401.2
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2016 Supplement)

15 BY adding to

16 Article – State Personnel and Pensions
17 Section 25–401.1
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2016 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That Section(s) 25–401.1 of Article – State Personnel and Pensions of the Annotated Code
22 of Maryland be renumbered to be Section(s) 25–401.2.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
24 as follows:

25 **Article – State Personnel and Pensions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **25-401.1.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) “DROP” MEANS THE DEFERRED RETIREMENT OPTION
5 PROGRAM ESTABLISHED UNDER THIS SECTION.

6 (3) “DROP MEMBER” MEANS A MEMBER OF THE CORRECTIONAL
7 OFFICERS’ RETIREMENT SYSTEM WHO:

8 (I) IS ELIGIBLE TO PARTICIPATE IN THE DROP AS PROVIDED
9 IN SUBSECTION (C) OF THIS SECTION; AND

10 (II) ELECTS TO PARTICIPATE IN THE DROP AS PROVIDED IN
11 SUBSECTION (E) OF THIS SECTION.

12 (B) THERE IS A DROP FOR ELIGIBLE MEMBERS OF THE CORRECTIONAL
13 OFFICERS’ RETIREMENT SYSTEM.

14 (C) A MEMBER OF THE CORRECTIONAL OFFICERS’ RETIREMENT SYSTEM
15 IS ELIGIBLE TO PARTICIPATE IN THE DROP IF THE MEMBER HAS AT LEAST 20 YEARS
16 AND LESS THAN 25 YEARS OF ELIGIBILITY SERVICE.

17 (D) AN ELIGIBLE MEMBER MAY ELECT TO PARTICIPATE IN THE DROP FOR
18 A PERIOD NOT TO EXCEED THE LESSER OF:

19 (1) 5 YEARS;

20 (2) THE DIFFERENCE BETWEEN 25 YEARS AND THE MEMBER’S
21 ELIGIBILITY SERVICE AS OF THE DATE OF THE MEMBER’S ELECTION TO
22 PARTICIPATE IN THE DROP AND RETIRE FROM THE CORRECTIONAL OFFICERS’
23 RETIREMENT SYSTEM; OR

24 (3) A TERM SELECTED BY THE MEMBER.

25 (E) (1) AN ELIGIBLE MEMBER WHO ELECTS TO PARTICIPATE IN THE
26 DROP SHALL:

27 (I) COMPLETE AND SUBMIT A WRITTEN ELECTION FORM TO
28 THE BOARD OF TRUSTEES ON THE FORM THAT THE BOARD OF TRUSTEES PROVIDES
29 STATING:

1 1. THE MEMBER'S INTENTION TO PARTICIPATE IN THE
2 **DROP;**

3 2. THE DATE WHEN THE MEMBER DESIRES TO RETIRE;

4 3. THE PERIOD THAT THE MEMBER DESIRES TO
5 PARTICIPATE IN THE **DROP**, AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

6 4. THE DATE WHEN THE MEMBER INTENDS TO
7 TERMINATE EMPLOYMENT WITH THE PARTICIPATING EMPLOYER IN THE FORM OF A
8 BINDING LETTER OF RESIGNATION ACCEPTED BY THE PARTICIPATING EMPLOYER;
9 AND

10 5. ANY OTHER INFORMATION REQUIRED BY THE BOARD
11 OF TRUSTEES TO IMPLEMENT THE **DROP**; AND

12 (II) COMPLETE AND SUBMIT A WRITTEN RETIREMENT
13 APPLICATION FORM TO THE BOARD OF TRUSTEES ON THE FORM THAT THE BOARD
14 OF TRUSTEES PROVIDES.

15 (2) AN ELIGIBLE MEMBER'S ELECTION TO PARTICIPATE IN THE
16 **DROP** IS IRREVOCABLE.

17 (F) (1) A **DROP** MEMBER'S PARTICIPATION IN THE **DROP** SHALL
18 COMMENCE ON THE FIRST DAY OF THE MONTH FOLLOWING ACCEPTANCE BY THE
19 BOARD OF TRUSTEES OF THE **DROP** MEMBER'S COMPLETED ELECTION FORM,
20 RETIREMENT APPLICATION FORM, AND ANY OTHER INFORMATION REQUIRED BY
21 THE BOARD OF TRUSTEES.

22 (2) A **DROP** MEMBER IS A RETIREE OF THE CORRECTIONAL
23 OFFICERS' RETIREMENT SYSTEM.

24 (G) PARTICIPATION IN THE **DROP** ENDS IF THE **DROP** PARTICIPANT:

25 (1) SEPARATES FROM EMPLOYMENT IN ACCORDANCE WITH THE
26 BINDING LETTER OF RESIGNATION SUBMITTED WITH THE MEMBER'S ELECTION
27 FORM;

28 (2) DIES;

29 (3) IS TERMINATED FROM EMPLOYMENT BY THE **DROP** MEMBER'S
30 PARTICIPATING EMPLOYER AT ANY TIME BEFORE THE DATE SPECIFIED ON THE
31 MEMBER'S ELECTION FORM;

(4) SHORTENS THE TIME PERIOD FOR PARTICIPATION IN THE DROP BY DELIVERING TO THE DROP MEMBER'S PARTICIPATING EMPLOYER AND THE BOARD OF TRUSTEES WRITTEN NOTICE OF THE INTENT OF THE DROP MEMBER TO TERMINATE EMPLOYMENT; OR

(5) ACCEPTS A DISABILITY RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE, AS PROVIDED IN SUBSECTION (K) OF THIS SECTION.

(H) (1) AS OF THE EFFECTIVE DATE OF PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES SHALL DETERMINE THE DROP MEMBER'S NORMAL SERVICE RETIREMENT ALLOWANCE UNDER § 25-401 OF THIS SUBTITLE.

(2) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN THE DROP, THE BOARD OF TRUSTEES SHALL:

(I) DEPOSIT THE DROP MEMBER'S NORMAL SERVICE RETIREMENT ALLOWANCE IN THE DROP FOR THE DROP MEMBER'S BENEFIT;

(II) ADJUST THE DROP MEMBER'S NORMAL SERVICE RETIREMENT ALLOWANCE EACH FISCAL YEAR AS PROVIDED IN TITLE 29, SUBTITLE 4 OF THIS ARTICLE; AND

(III) ACCRUE INTEREST ON THE AMOUNTS CALCULATED UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH FOR THE DROP MEMBER INTO THE DROP AT THE RATE OF 4% A YEAR, COMPOUNDED ANNUALLY.

(3) A DROP MEMBER MAY NOT RECEIVE CREDITABLE SERVICE OR ELIGIBILITY SERVICE DURING THE PERIOD THAT THE DROP MEMBER PARTICIPATES IN THE DROP.

(4) A DROP MEMBER'S COMPENSATION DURING THE PERIOD THAT THE DROP MEMBER PARTICIPATES IN THE DROP MAY NOT BE:

(I) SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF § 21-313 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES; OR

(II) USED TO INCREASE THE DROP MEMBER'S AVERAGE FINAL COMPENSATION EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION.

(5) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN THE DROP, THE DROP MEMBER SHALL:

1 (I) CONTINUE TO RECEIVE COMPENSATION, HEALTH
2 INSURANCE AND OTHER BENEFIT OPTIONS ESTABLISHED UNDER THE STATE
3 EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFIT PROGRAM
4 ADMINISTERED BY THE SECRETARY OF BUDGET AND MANAGEMENT, AND ANY
5 OTHER BENEFITS AS AN EMPLOYEE OF THE PARTICIPATING EMPLOYER;

6 (II) BE SUBJECT TO THE PERSONNEL LAW, REGULATIONS, AND
7 POLICIES APPLICABLE TO AN EMPLOYEE OF THE PARTICIPATING EMPLOYER BY
8 WHICH THE MEMBER IS EMPLOYED; AND

9 (III) RECEIVE RETIREMENT BENEFITS ONLY TO THE EXTENT
10 PROVIDED IN THIS SECTION.

11 (6) THE BOARD OF TRUSTEES IS NOT REQUIRED TO ESTABLISH AN
12 INDIVIDUAL DROP ACCOUNT FOR EACH DROP MEMBER.

13 (7) EACH YEAR, THE BOARD OF TRUSTEES SHALL PROVIDE A DROP
14 MEMBER WITH A WRITTEN ACCOUNTING OF THE DROP MEMBER'S ACCOUNT
15 BALANCE IN THE DROP.

16 (I) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION,
17 ON TERMINATION OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE
18 BOARD OF TRUSTEES SHALL PAY TO THE DROP MEMBER OR, IF THE DROP
19 MEMBER HAS DIED, THE DESIGNATED BENEFICIARY OF THE DROP MEMBER, THE
20 AMOUNT ACCRUED IN THE DROP FOR THE DROP MEMBER UNDER SUBSECTION
21 (H)(2) OF THIS SECTION, REDUCED BY ANY WITHHOLDING TAXES REMITTED TO THE
22 INTERNAL REVENUE SERVICE OR OTHER TAXING AUTHORITY, IN A LUMP SUM.

23 (2) THE DESIGNATED BENEFICIARY OF A DROP MEMBER IS:

24 (I) THE DROP MEMBER'S SURVIVING SPOUSE;

25 (II) IF THERE IS NOT A SURVIVING SPOUSE OR IF THE
26 SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD IS 18 YEARS OLD, EACH
27 CHILD OF THE DECEASED DROP MEMBER WHO IS UNDER 18 YEARS OLD; OR

28 (III) IF THERE IS NOT A SURVIVING SPOUSE OR A CHILD WHO IS
29 UNDER 18 YEARS OLD, THE PERSON NAMED AS A BENEFICIARY IN AN
30 ACKNOWLEDGED WRITTEN DESIGNATION FILED WITH THE BOARD OF TRUSTEES BY
31 THE DROP MEMBER.

1 **(3) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP**
2 **MEMBER MAY DIRECT THE BOARD OF TRUSTEES TO PAY ALL OR A PORTION OF THE**
3 **AMOUNT ACCRUED FOR THE DROP MEMBER'S BENEFIT UNDER SUBSECTION (H)(2)**
4 **OF THIS SECTION DIRECTLY TO THE CUSTODIAN OF AN ELIGIBLE RETIREMENT PLAN**
5 **AS PROVIDED IN TITLE 21, SUBTITLE 6 OF THIS ARTICLE.**

6 **(4) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP**
7 **MEMBER IS ELIGIBLE TO RECEIVE THE AMOUNT DUE UNDER THIS SUBSECTION**
8 **WITHIN 90 DAYS AFTER:**

9 **(I) THE DATE OF TERMINATION OF THE DROP MEMBER'S**
10 **PARTICIPATION IN THE DROP;**

11 **(II) RECEIPT BY THE BOARD OF TRUSTEES OF A COMPLETED**
12 **APPLICATION TO RECEIVE THE DROP AMOUNT, ON THE FORM THAT THE BOARD OF**
13 **TRUSTEES PROVIDES; AND**

14 **(III) RECEIPT BY THE BOARD OF TRUSTEES OF ANY OTHER**
15 **INFORMATION THAT THE BOARD OF TRUSTEES REQUIRES TO PROCESS PAYMENT OF**
16 **THE DROP MEMBER'S ACCOUNT BALANCE TO THE DROP PARTICIPANT, THE**
17 **DESIGNATED BENEFICIARY OF THE DROP PARTICIPANT, OR THE CUSTODIAN OF AN**
18 **ELIGIBLE RETIREMENT PLAN.**

19 **(J) AS OF THE FIRST DAY OF THE MONTH FOLLOWING TERMINATION OF A**
20 **DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES SHALL**
21 **COMMENCE AND CONTINUE PAYMENT OF THE NORMAL SERVICE RETIREMENT**
22 **ALLOWANCE, INCLUDING THE COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN**
23 **TITLE 29, SUBTITLE 4 OF THIS ARTICLE, TO THE MEMBER AS PROVIDED IN § 25-401**
24 **OF THIS SUBTITLE.**

25 **(K) (1) A DROP MEMBER IS ELIGIBLE TO APPLY FOR A DISABILITY**
26 **RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE IF, AFTER THE DROP**
27 **MEMBER COMMENCES PARTICIPATION IN THE DROP:**

28 **(I) THE MEMBER IS TOTALLY AND PERMANENTLY**
29 **INCAPACITATED FOR DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN**
30 **ACCIDENT THAT OCCURRED IN THE ACTUAL PERFORMANCE OF DUTY AT A DEFINITE**
31 **TIME AND PLACE THAT OCCURS WHILE PARTICIPATING IN THE DROP, AND**
32 **WITHOUT WILLFUL NEGLIGENCE OF THE MEMBER; AND**

33 **(II) THE MEDICAL BOARD CERTIFIES THAT:**

1 1. THE MEMBER IS TOTALLY INCAPACITATED, EITHER
2 MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF THE NORMAL
3 DUTIES OF THE DROP MEMBER'S POSITION BY THE OCCURRENCE DESCRIBED
4 UNDER ITEM (I) OF THIS PARAGRAPH;

5 2. THE INCAPACITY IS LIKELY TO BE PERMANENT; AND

6 3. THE MEMBER SHOULD BE RETIRED.

7 (2) (I) IF A DROP MEMBER IS GRANTED A DISABILITY
8 RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE, THE DROP MEMBER
9 SHALL:

10 1. SUBMIT AN APPLICATION TO THE BOARD OF
11 TRUSTEES, ON THE FORM THE BOARD OF TRUSTEES PROVIDES, TO RECEIVE
12 PAYMENT OF THE AMOUNT ACCRUED IN THE DROP IN ACCORDANCE WITH
13 SUBSECTION (I) OF THIS SECTION;

14 2. EXECUTE A WRITTEN WAIVER OF ANY BENEFITS TO
15 WHICH THE DROP MEMBER MAY BE ENTITLED UNDER THE DROP; AND

16 3. SUBMIT AN APPLICATION TO RETIRE WITH A
17 DISABILITY RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE, ON THE
18 FORM THE BOARD OF TRUSTEES PROVIDES, STATING THE EFFECTIVE DATE OF THE
19 DROP MEMBER'S RETIREMENT AS A DISABILITY RETIREE.

20 (II) ON ACCEPTANCE OF THE APPLICATION FOR PAYMENT AND
21 APPLICATION TO RETIRE, THE BOARD OF TRUSTEES SHALL COMMENCE PAYMENT
22 OF A DISABILITY RETIREMENT ALLOWANCE TO THE DROP MEMBER AS PROVIDED
23 IN § 29-110 OF THIS ARTICLE, EXCEPT THAT THE DROP MEMBER'S AVERAGE FINAL
24 COMPENSATION SHALL BE COMPUTED AS OF THE EFFECTIVE DATE OF THE DROP
25 MEMBER'S APPLICATION FOR THE DISABILITY RETIREMENT ALLOWANCE.

26 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2017, the
27 State Retirement Agency shall request a determination letter from the Internal Revenue
28 Service that confirms the continued qualification under § 401 of the Internal Revenue Code
29 of the Correctional Officers' Retirement System, as amended by the Deferred Retirement
30 Option Program established under Section 2 of this Act.

31 SECTION 4. AND BE IT FURTHER ENACTED, That:

32 (a) Sections 1 and 2 of this Act shall take effect contingent on receipt of a
33 determination letter from the Internal Revenue Service that confirms that the Correctional

1 Officers' Retirement System, as amended by the Deferred Retirement Option Program, is
2 a qualified plan under § 401 of the Internal Revenue Code.

3 (b) If a favorable determination letter is received, Sections 1 and 2 of this Act
4 shall take effect the first day of the month after the State Retirement Agency receives the
5 determination letter.

6 (c) If the State Retirement Agency does not receive a favorable determination
7 letter, Sections 1 and 2 of this Act, with no further action required by the General Assembly,
8 shall be null and void and of no further force and effect.

9 (d) The State Retirement Agency, within 5 days after receiving the determination
10 letter from the Internal Revenue Service, shall forward a copy of the ruling to the
11 Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

12 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this
13 Act, this Act shall take effect July 1, 2017.