S-3925.1

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**SENATE BILL 6433**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Bailey, Angel, Becker, Brown, Braun, Warnick, and Rolfes

AN ACT Relating to the forfeiture of the pension of a public employee convicted of a felony for misconduct associated with such person's service as a public employee; adding a new section to chapter 41.04 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 41.04 RCW to read as follows:

(1) Notwithstanding any other law, if a member of a state retirement system or plan listed in RCW 41.50.030 is convicted of or pleads guilty or nolo contendere to an offense that is a class 1, 2, 3, 4, or 5 felony that was committed in the course of, or was related to, the member's employment, as a public official or public employee, the court shall order the person's membership terminated and the person shall forfeit all rights and benefits earned under the state retirement system or plan. A member who forfeits all rights and benefits earned pursuant to this section is entitled to receive, in a lump sum amount, the member's contribution to the state retirement system or plan without interest, less any benefits already received.

(2) An order forfeiting a member's benefits on conviction of an offense listed in subsection (1) of this section shall not be stayed on the filing of any appeal of the conviction. While an appeal of the conviction is being adjudicated and until a final judgment is issued, the department of retirement systems shall suspend payments to the member and hold the assets in trust. If the conviction is reversed on final judgment, no rights or benefits shall be forfeited.

(3) Notwithstanding subsection (1) of this section, the court may award to a spouse, dependent, or former spouse of a member who is subject to subsection (1) of this section some or all of the amount that was forfeited under subsection (1) of this section. The award under this subsection shall not require the department of retirement systems to provide any type, form, or time of payment of survivor or retirement benefits or any survivor or retirement benefit option that is not provided by the laws governing the state retirement system or plan from which the award is being made.

(4) In determining whether to make an award under subsection (3) of this section, the judge shall consider the totality of circumstances, including:

(a) The role, if any, of the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted;

(b) The degree of knowledge, if any, possessed by the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted;

(c) The community property nature of the benefits involved; and

(d) The extent to which the person's spouse, dependent, or former spouse was relying on the forfeited benefits.

(5) The court shall provide a copy of the order of forfeiture to the department of retirement systems.

(6) This section applies only to members who commit a felony after the effective date of this section.

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