



Forfeiture of Retirement Benefits – Attestation of Understanding

All individuals employed on or after January 1, 2013 are required to read and sign this attestation form.

La. R.S. 11:293 provides for the forfeiture of retirement benefits by a public employee or elected official (hired or beginning service on or after January 1, 2013) convicted of a “public corruption crime.” This law defines “public corruption crime” as a state or federal felony committed on or after January 1, 2013, in which the sentencing judge finds that the public servant acted willfully and in the course and scope of his official capacity and that any of the following apply:

1. The public servant realized or attempted to realize a financial gain for himself or for a third party.
2. The public servant committed any criminal sexual act with or upon the person of a minor, and there was a direct association between the public servant and the minor related to the public servant’s employment.

The statutory text of La. R.S. 11:293, setting forth the provisions of law governing forfeiture of benefits, is below.

Section 1 — Member Information

Name: Last, first, MI, suffix (Jr., III, etc.)

Social Security number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Section 2 — La. R.S. 11:293. Forfeiture of retirement benefits; public corruption crimes

A. As used in this Section, the following words or phrases shall have the following meanings:

- (1) “Conviction” or “convicted” means a criminal conviction, guilty plea, or plea of nolo contendere that is final, and all appellate review of the original trial court proceedings is exhausted.
- (2) “Public corruption crime” means a state or federal felony committed on or after January 1, 2013, in which the sentencing judge finds the public servant acted willfully and in the course and scope of his official capacity and the evidence establishes either of the following:
 - (a) The public servant realized or attempted to realize a financial profit or a financial gain for himself or for a third party.
 - (b) The public servant committed any criminal sexual act with or upon the person of a minor, and there was a direct association between the public servant and the minor related to the public servant’s employment.
- (3) “Public retirement system” means any state, statewide, or any local public retirement system, plan, or fund.
- (4) “Public servant” means a public employee or an elected official as defined in R.S. 42:1102 who is a member, former member, deferred retirement option plan participant, or retiree under the provisions of any public retirement system and who meets any of the following criteria:
 - (a) His first employment making him eligible for membership in a public retirement system began on or after January 1, 2013.
 - (b) He was employed in a position making him eligible for membership in a public retirement system prior to January 1, 2013, but he terminated his service prior to that date and is reemployed in such a position on or after that date.
 - (c) He assumes an elective office on or after January 1, 2013, and by virtue of that service or previous public service he is eligible for membership in a public retirement system.

B.(1) Following the conviction of a public corruption crime, the sentencing court shall determine if the conviction warrants forfeiture as provided in this Subsection or garnishment as provided in R.S. 11:292. In order to determine the appropriate remedy the sentencing court shall review the following factors:

- (a) The nature of the offense.
- (b) The prior service of the public servant and the appropriateness of any mitigating factors.

(2)(a) If the court determines that forfeiture is appropriate, the court may order the forfeiture of the public servant’s right to receive any benefit or payment of any kind under this Title except a return of the amount contributed by the public servant to the retirement system without interest, subject to Subparagraph (b) of this Paragraph.

(b) If the court orders the public servant to make restitution to the state or any political subdivision of the state for monetary loss incurred as a result of the public corruption crime for which he is convicted, the court may order restitution to be paid from the amount contributed by the public servant to the retirement system.

(c) Subject to the requirements of Paragraph (3) of this Subsection, the court may award to the member's spouse, dependent, or former spouse, as an alternate payee, some or all of the amount that, but for the order of forfeiture under Subparagraph (a) of this Paragraph, may otherwise be payable. Upon order of the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this Subparagraph. The system shall also calculate the spousal share of the public servant's benefit for the sentencing court in accordance with existing community property law. Any dependent's share shall be calculated in the same manner as a spousal share. In determining the award, the court shall consider the totality of the circumstances, including but not limited to:

(i) The role, if any, of the member's spouse, dependent, or former spouse in connection with the crime.

(ii) The degree of knowledge, if any, possessed by the member's spouse, dependent, or former spouse in connection with the crime.

(3) An award ordered under Subparagraph (2)(c) of this Subsection may not require the retirement system to:

(a) Provide a type or form of benefit or an option not otherwise provided by the retirement system.

(b) Provide increased benefits determined on the basis of actuarial value.

(c) Take an action contrary to the system's governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent, or former spouse.

(4) All of the convicted public servant's service credit attributable to employer contributions and interest on those contributions that are not otherwise assigned pursuant to Subparagraph (2)(c) of this Subsection shall be forfeited, and any dollar amount of such employer contributions and interest, together with any funds in the individual's deferred retirement option plan account, shall be applied to reducing the balance of the unfunded accrued liability of the system in a manner determined by the system's board of trustees. If the system has no unfunded accrued liability, the employer contributions and interest shall revert to the system's trust.

C. Notwithstanding the provisions of Subsection B of this Section, survivor benefits being received by the surviving unmarried spouse, the surviving minor child, or the surviving physically or mentally handicapped child who is entitled to a survivor benefit of a deceased public servant convicted of a public corruption crime shall be based solely on the amount of the public servant's benefit forfeited to the retirement system and shall not be based on any amount remitted to the public servant.

D. No provision of this Section shall impinge on any judicially recognized community property interest of a current or former spouse.

E. Each public retirement system shall create an attestation form explaining the provisions of this Section and shall provide such attestation form to each employing agency. Each employing agency shall provide every public servant with such attestation form and such public servant shall be required to sign the form indicating that he has read it and understands the contents thereof.

F.(1) A parish prosecutor shall inform the secretary of the Department of Public Safety and Corrections in writing when a conviction for a state public corruption crime is entered against a person who the prosecutor knows, or has reason to believe, is a member of a public retirement system and who is subject to the provisions of this Section. The secretary shall compile such information and transmit it to the appropriate public retirement system.

(2) The secretary of state, upon being notified by a United States attorney of a felony conviction for a federal public corruption crime, whether or not such conviction qualifies as a conviction as defined by this Section, shall promptly transmit to each public retirement system information pertaining to such conviction.

G. The provisions of this Section shall apply only to benefits earned on or after January 1, 2013.

Section 3 — Attestation

I, _____, have read this form,
print name
Forfeiture of Retirement Benefits – Attestation of Understanding, and understand its contents.

Signature

Date (mm/dd/yyyy)

